A

LETTER

TO

An OFFICER of the ARMY

CONCERNING A

SELECT SENATE

mentioned by them in their *Propoſals* to the late *Parliament.*

The *Neceſſity* and *Prudentialneſs* of *ſuch a Senate* is here aſſerted by *Reaſon* and *Hiſtory.*

Whereunto are added ſundry *Poſitions* about GOVERNMENT, and an ESSAY towards a *ſecure Settlement.*

By HENRY STUBBE, of Ch. Ch. in *Oxon.*

Salus Populi ſuprema Lex eſto.

LONDON,
Printed, and are to be Sold by *T. B.* at the three Bibles in *Paul's* Church-yard; and in *Weſtminſter-Hall.* 1659.

This letter was dispatched away to the presse before the late dissolution of the Parliament; *who having forgot whose* Trustees *they were, and* by whom *invited to sit, as well as protected in their* Session, *began to act those things which might onely have been expected from men complying with the old enemy: it is evident* whose work *they did, though possibly their designs be different, or cunningly masqued: The illustrious* Lord Lambert *would have been excellently payed with* Sir G. Booth *in the* Tower, *and a* cessation *at* Westminster *would have been as fatal as a* rout *at* Chester. *I hope one who was not of their cabinet may be excused if he* ignore *or* misconstrue *so* dubious courses, *as they took to imbroil the Nation in* blood *again. The* denial *of a* toleration *to them by whose* valour *and* strength *they were supported, and had it not been for whom* the Enemy *would not have* Tolerated them to live, is a case of *very ill import.*

Truely these late accidents do much justifie the contents of the letter, whose Author (though neither Studied *in* Politick *discourses, nor ever conversant in affaires of that nature) hath so distinctly in a place where he received no intelligence of things, foretold several events, that this* premonition *was necessary, lest it might have seemed written* since *those actings. He desires the Reader not to censure his* severity *towards any party of men, until the whole discourse be perused: he is confident he hath more* moderately *provided for* them, *then* they *would for* him: *what he hath said is rather to shew that he* knowes them, *then that he* hates *them: and if (notwithstanding his* reading *and* experiences) *any shall avow and prove there are* no such persons now, *as he speaks of; the Author is ready to give him* Albricias *for his information, and to accomodate the definition of* Tyrants *in* Boccalini *to the* Presbyterians, *by saying* they were a sort of men living in former times, *or rather* days. *The Lord make us* unanimous, *and* resolute, *and* give us hearts to *deny our selves* in every thing that is inconsistent with a *common equity* and *interest.*

A LETTER To an OFFICER of the ARMY Concerning A Select Senate, &c.

SIR,

WHen I was laſt at *London*, you were pleaſed to honour me with a Diſcourſe about the *Propoſals of the Army*, and particularly about their deſires for *a Select Senate*: I profeſſe your words have left ſuch an Impreſſion in me, that I am ready to cry out with *Tully*, *Pudendum ſit, honeſtiora eſſe legionum decreta, quam Senatus*; and wiſh the Parliament no other *Reſolves* than what you had *Propoſed*. The *Select Senate*, whoſe very *Name* hath amaſed ſome, and exaſperated others, was by you not onely *allayed*, as to its harſhneſſe, but rendered *plauſible* and to be deſired by every *honeſt heart*. It was then, I ſaw, your *Deſires* were not to oppreſſe others, but *Secure* your ſelves,

not to *overthrow* a *Common-Wealth*, but to *preserve it*, not to *advance* an **Oligarchy*, but to *continue* all in that *Freedome* whereunto the Lord hath called us, God having ceased to work any *greater miracles* than *those* whereby he dis-ingaged us from *Slavery*: you were not *now* to say to a *Republick* NELY, as *Joshua* did to the *Sun* and *Moon* formerly: *Sun stand thou still upon Gibeon, and thou Moon in the valley of Aialon*; and yet, me thoughts, I saw you distracted betwixt a *tenderneſſe* for *others*, and a *regard* for your selves, and if to *deny* the *latter*, had not been to betray the *good old Cause*, to frustrate all your *Performances*, to forsake the *returns of your Prayers*, to undervalue *Mercies*, when *given*, which you so prised at their *imploring*; In fine, to make the *bloud of the Saints under the Altar* to cry as loud against *you* as it did against their *Oppressours*: You were so carefull for *Others*, as to need a *Monitour* to advise you to *love your selves as you do men of an unkind neighbour-hood*. You represented unto me the *posture of affaires*, amongst us, the *different factions* and parties, and how some did think all the *Liberty*, purchased hitherto, was, that they might *depresse others*. You told me, how *it was not impossible*, but *God* might dispose the *result* of our *present Counsels* to a *generous* and happy issue, but that it was hard to see how an *absolute Power* could be *bound*, or find *security* that the *next Assembly* should not *undoe* all that *this* could *establish*. You acquainted me with the thoughts of many precious men, that there ought some things to be declared *Fundamental*, and Immutable hereafter. As,

That all Power is derived from the People, and that the Assemblies, that shall be, are but the Peoples Trustees.

That all delegated Power is for the preservation, not destruction of the People.

That to admit any single Person, who is meerly bone of our bone and flesh of our flesh, as endowed with the Supreme Legislative power, is absolutely destructive to the Liberties of the Nation; and, to place the Executive in One, so dangerous, (as Reason and late Experiences teach us) *that it might*

* I take *Oligarchy* here, as the ignorant Vulgar mistake it; for the corruption of *Aristocracy*; whereas *Oligarchy* is but the Government of a *few*, and not of the *Boly*: And it is observed by *Crag.* upon the *Spartan Republick*, that *Oligarchy* is a word of an *Innocent*, yea, a good signification; and the Reiglement of *Lacedæmon* is called an *Oligarchy* by *Isocrates*, and others; though he who shall examine the institution of the *Senate* will say it was made up of the *best*, and so was an *Aristocracy*.

might ſcarce deſerve a milder cenſure.

That, ſince the men from whom this power is to be deduced are men of different gifts & diſpenſations, their *Truſtees are not to intermeddle with matters of Religion*; It being to be *ſuppoſed*, that the *Delegators* will not give them any *ſuch Power*, upon the account mentioned, as it may be *proved* (and hath been *) that they neither could *give*, nor the others any way *receive* or *execute* ſuch a Power.

* See *H. S* In defenſe of the good old Cauſe

Theſe (and it may be ſome other) things you ſaid were intended by *you* as *Fundamentals* for the *new Government* to be erected on, and which if they might be continued without alteration, you did not deſire that any number of men ſhould *Oligarchically* rule the great Aſſembly of the *Peoples Repreſentatives* hereafter, and practiſe a *Negative*, which the Nation hitherto could not brook. You ſhewed me how, what was your care now, had been heretofore the thoughts of other *Republicks*; the *Cretans* had their ten *Coſmi*, the *Spartanes* five *Ephori*, the *Romans* firſt five, and after ten *Tribunes* annually for the *People*: You acquainted me with the *unapplicableneſſe* of thoſe meanes to our times, not onely for the exceptions made againſt the two former by *Ariſtotle*, and others; but becauſe that our *Democracy* must not be *really* ſuch, but ſuch by *Repreſentatives*, and to reſide in a *City* (of which if we may judge by the great trouble you were lately put to in Sir *George Boothes* Inſurrection, to keep it in peace) not ſo well affected to the *aforeſaid Fundamentals*, but that they will become an Army to aſſiſt, or force the *Repreſentatives* (not too well affected, if choſen as intended by ſome) to ſubvert the propoſed *Baſis* when there ſhall be no more to ſhew in its behalf then a *Scrole* ſigned by Mr. St. *Nicholas*. If the conſtitution of the *Tribunes* were at any time effectuall for the Peoples ſafety and protection, it was becauſe they made their *Interceſſions* againſt the *Senate* and *Conſuls*, in a place where they could raiſe armes in their defence with as much eaſe as they could interpoſe their Authority, and ſend the *Conſul*, or *Cenſour* to Priſons, and oppoſe the

Polit. l. 2. c. 7.

Dictator, had they not been thus seconded by the *People* (as a *standing Army*) their place would have been *useless*, or *prejudicial* to the *Republick*, as serving onely to create *divisions*, not redresse or prevent *grievances*. Of this we have an instance in the case of the *Gracchi*, who being *Tribunes* were slain notwithstanding that the *Office* did render their persons *sacred*, and any man might kill him that should oppose *them*, without being punished. They were to sit *at the door* of the *Senate* constantly (after-times did place them in the *Senate*) and all the Decrees of the *Senate* were transmitted to *them* for their approbation; if they allowed them, then were they valid, being signed with the Letter T. but if they disliked them then did they write thereon *VETO*, *I forbid*, and they were cassated: The *Tribunes* could assemble the people at any time, they could call them away from any other assemblies whatever: yet could not all this secure the peoples freedome. And if so, how can they be secure without these provisions for their *Fundamental* constitutions? In the beginning of the warrs betwixt *Cæsar* and *Pompey*, it was one part of the *pretenses* of the *former* to uphold the *Tribunes*.

Manut. de Legib. Sigonius de jure civ. Rom. *l.* 1. *c.* 6.

Bodin. de repub. *l.* 2.

Cæs. de bel. civ. *l.* 1.

Lucan *l.* 1.

Expulit ancipiti discordes urbe Tribunos,
Victo jure minax jactatis Curia Gracchis.

Sparta at first, by the constitution of *Lycurgus*, was a Common-wealth *equally* constituted of a *Senate proposing*, and a *popular Assembly resolving*, in which posture it continued about 100, or 130 years, their *Kings* being only the *fore-men* of the *Senate*. Then *Polydorus* and *Theopompus* finding that the *people* in *their Assembly* did not *well* resolve upon *wholesome* propositions made by the *Senate*, these men did upon a *pretended advice* from the *Oracle*, erect an *Aristocracy*, or government of 30 Senators, in the election of whom all that I find the people did, was, that as the *Candidates* passed by, some were to stand, observe what applaudes they received, and accordingly the deceased *Senators* places were filled up: and beyond this the

Bodin. de Repub. *l.* 2. *c.* 1.

Bodin. Meth. Histor. *c.* 6.

people

people had no further power in the *government*. So that the *Lacedæmonians* or *Spartans* were for an *Optimacy*, or ruling by a *Senate* for life, consisting of 30 persons; and this government did they endeavour to introduce in all places of *Greece*, and upon this account did they mannage the *Peloponnesiack* war 20 years, the *Athenians* endeavouring to plant *Democracies*, the *Lacedæmonians* on the contrary *Aristocracies* in the Cities of *Greece*. And since Mr. *Harrington* dispunges all the time after this war from the *happy constitution* of the *Common-wealth*, he must give me leave to think the History of *Lacedæmon* is a plea for *Optimacie*. A plea grounded upon the *experience* of an *equal Common-wealth* established by the prudent *Lycurgus* in a *Senate proposing*, and *people resolving*, and practised for more than *one generation*, (that *custome* might inure them to it) upon *such circumstances* as are not to be hoped for *amongst us*, yet could not all this so settle the *State*, but that they preferred an *Aristocracy* before that condition, and did recommend it to others. Whilest the *popular constitution* of *Athens* presents us with very little that might endear it unto us: The multiplicity of *Orators*, and *Philosophers* however they uphold their credit *abroad*, did not advantage them *at home*; less talk and *more prudence* would have proved them more *real* benefits, then those that their acquests were *not great*, or of *that durance*, and their *domestick postura* hath been more celebrated *now* then by them that *lived* and *acted in it*, and who are famed in their writings.

Bodin. de Repub. *l.* 2. *c.* 1. against Mr. Wren. *p.* 41.

If any say with *Polybius* and others that the constitution of the *Ephori* made it to be alwayes a *Democracy*, since it is the general opinion that they were answerable to the *Roman* Tribunes: I am so far from thinking so, that I imagine the *Ephori* to have had no share in the *Legislative* power at all being erected, for ought I have hitherto informed my self out of *Plato* and *Plutarch* as a curb to their *hereditary Kings*, and not to the *Senate* in which was the *Legislative* power, and not in the *Kings*, who had only the *executive*, and that there should be no error or encroachments committed *therein*, I suppose them to have been instituted. I find not that they sate in the *Senate*, or were to practise any *negative*, or that their consents was demanded to *Laws*; they *every moneth* made the Kings take oath *that he would rule according to the Laws in being*; and in time of war two of them did accompany him to the said end. Another end of their institution may have been to attend upon *judicature* in *emergent controversies* betwixt *private persons*, for the *decision* whereof *Lycurgus* did not provide, but rather that there should none *arise* (δίκας ὡς εἰκὸς, ἐξέλιπον ἅμα τῷ νομίσματι, *Plutarch. in Lycurg.*) and one way to deterre them from strife (of the many which he took,

took) was that there was no *judge* to determine them, nor no penalties for transgressors of that kind; where none could be damaged but who was criminal to the Common-wealth. Now as the *Ephori* did judge in these cases, and had their Court [ἐφορεῖον] to this purpose, so I guess they may have been appointed by *Theopompus* to this end, and either of these grounds is reconcilable to the answer of *Theopompus* to his *wife*, when she reproved him for *diminishing his power*; his reply being, that his *security was the greater*. How they afterwards did aggrandise themselves, as the way is easily deducible from the original which I ascribe them; so it makes for another *Position* of mine, if they flourished under so usurping an *Ephorate*, viz. *That where the Spirit of the people is qualified for liberty* (and the *Spartan* being once demanded what he knew, answered; *to be free*) *there a Common-wealth under bad orders, may subsist and that long*; (for as the exhorbitateing Tribunes did render *Rome* an *Anarchy*, so did the *Ephorate* Sparta) *But where the people are not so qualified, there a Common-wealth cannot be in its extent setled; or if it be, will not continue.* For the proof of which I refer my self, to those two great *Politicians* in their discourses, *Malvezzi* and *Baruta*, where they enquire why *Rome* could not establish her liberty, after the death of *Cæsar*.

But to observe one thing before I pass hence: *Lacedæmon* and the Country of *Laconia* inhabited by the *Helotes* made one Common-wealth, a part only managing the Government as to *Magistratical* and *Military* commands and performances, the other being excluded all acts of government, and having subjection entailed on them as *boores* or *peysants*, yet this Common-wealth, so *unequal*, subsisted above 700 years; notwithstanding all that is in our dayes pleaded to evince the *impossibility* of such a frame, and if there did arise wars amongst them from the *Helotes*, yet was not that thorough defect in the *constitution*, but that being Seated in the *main Land*, their neighbours did excite and assist the *Helotes*: whereas in *Crete* (which is an *Island*, as ours) though there was the same constitution of government which was in *Sparta* (this being made a pattern for the other by *Lycurgus*) their *Periæci* did not create them the like disturbances as *Aristotle* observes. So in *Israel* there were the *Gibeonites*, and other *Canaanites* remaining in the Land, from *natives* changed by the new *polity* into *Strangers*, excluded from all *Israelitish* government, though they had *Magistrates* of their own, (from whence I may infer an *inequality* of fortunes) besides these there were the descendants of those which came out of *Egypt* with them, who were *deprived of their liberty*; in so much that in *Salomons* time there were numbred of the

It is very probable that the *Helotes* were numerous in *Laconia*, at home since in the wars each *Spartan* had nine of them to attend him, as *Herodotus* saith, l. 9. *Polit.* l. 2. c. 9. *Maximus Tyrius*, Or. 3. doth reckon for governments purely *Aristocratical* or *Oligerchical* that of *Thessaly*, *Pellene*, and *Mantinea*, together with *Lacedæmon* and *Crete*.

See the preface to *H. S.* in defence of the good *Old Cause*.

the *men* able to work, *an hundred and fifty thouſand, and three thouſand, and ſix hundred.* 2 *Chron.* 2. 17. beſides there were the *Proſelytes of juſtice* or *Converts* ſuch as embraced the *Jewiſh* religion entirely; theſe, in the flouriſhing dayes of *Salomon* and *David* as Mr. *Selden* reports out of the *Rabbies*, were ſo numerous that they were not received to become *entire* proſelytes (being as it was to be imagined, *converted* rather by a ſight of the flouriſhing condition *Iſrael* was than in, than apprehenſions of conſcience) and ſo enjoy the priviledg of entering into the *popular Aſſemby*, termed the *Congregation of the Lord:* It is not to be doubted, but there were many *Baſtards* conſidering the *politick diſpoſition* of the *Jews*) who were not to enter into the *Congregation of the Lord* even to the *tenth Generation*, Deut. 23. 1, 2. And at all times the *Proſelytes of juſtice* were excluded though not from *ſuffrage* in the *Congregation of the Lord*, yet from bearing any *Office* of *Power* or publick *Truſt*, though ſeveral places of *Profit* they were capable of. Notwithſtanding this *inequality*, I do not ſee or read, that the ruine of that *State* was thereby haſtened.

Jur. natural. Heb. If they had been admitted to *entire Proſelyteſhip*, they might by their number have overthrown the *State*, having *Voues* in the *Aſſembly of the Lord.*

From whence I do conclude, That *the Diviſions, Diſturbances, and Dangers, which they who oppoſe an unequal Common-wealth do threaten us with, are but imaginary,* (upon other accounts, as well as, that we are Iſlanders) *and not of that moment, as to induce us to quit real and preſent Aſſecuration: And if they do ever actually befal us, it muſt be through our own Defaults; which is no prejudice to the form of Government fixed upon, but to them who ſhall ill manage good Contrivances.*

After

After we had discourſed about theſe *Forraign* Contrivances of the *People* to ſecure their *Liberty*, not againſt *conquered Enemies*, but *preſent Friends*, whoſe *ambition* (not *malice*, animated with a conceit of *Religion*) was dreaded by them; we came to examine *modern projects* of our own and neighbour Nations, laid for the attaining the ſame end: whoſe *circumſtances* might be as ſuitable to *ours* at preſent, as the *republicks* of *Greece* poſſibly may be *diſproportioned* through the different *temperament of the people*; which is a *note* of ſo much value, that *Ariſtotle* upon that ſole inducement would have given us other adviſe then our *Politicians*; ſince he makes the *Europæans*, *Aſiaticks*, and *Greeks* upon that ground to be incapable of a *reſembling* Government; and for *us*, he is poſitive in it, that we are not *capable of a right Common-welth*. So that we ought not to be diſcouraged if ſuch a *model* be propoſed, as hath ſome *inconveniencies* in it, *as examined by the rules of the Grecian Politicks*; it being *no leſs* evident that all the *inconveniencies* which enſued upon ſuch conſtitutions in *Greece* are not to be feared amongſt us; which I could evince to the moſt *refractory* perſon, if I had leiſure.

Polit. l 7. c. 7. Campanella *pol.* c. 4. S. 19. ἀπολίτευτοι.

Here I inſtanced, that it was not altogether *unuſual* upon a *Civil War*, for the *Party prevailing* againſt their *oppreſſing Rulers*, to aſſign them a *certain number of perſons* (with power to arm upon occaſion) for the *Securing* unto them thoſe *Liberties* and Priviledges, which they had fought for; however *Sylla*, *Marius*, *Auguſtus Cæſar*, took more ſevere wayes: In *France* we find that *Lewis* 11. upon the prevalence of the *league for the publick good*, had 36. appointed him out of the *three Eſtates* by a *general Aſſembly* of them, to be *Curators of the publick*, and to ſee juſtice adminiſtred duly: as *Hottoman* informs us out of *Monſtrelletus*, *Lamarcius* and other *Hiſtorians*. In *England*, upon the *Barons* Wars with K. *John*, the like was practiſed: They having cauſed him to ſign the *Magna Charta*, and *Charta Foreſtæ*, to ſecure themſelves in the aforeſaid *Liberties*, they gave him a check in the Government, viz. *Twenty five ſelected Peers*, to whoſe commands *all the other*

Franco Gal. p. 211, 212, 213.

Speed Hiſt. of K. John S. 56.

Barons

Barons were bound by oath to be obsequious. Had they not taken this course, all their *Grants*, though *subscribed* by never so many *hands*, and *authenticated* by never so many *Seals*, would upon any emergency have been as unserviceable as *Muncer's* Cloak, which he perswaded the *German* Boores (whom he had seduced into a rising) if *spread abroad*, would in the day of Battail secure them from all the small and great shot of their *enemies*. If it be objected that neither the *French* nor *English* project did procure the effects designed. It is easily answered that the *Contrivance* was not therefore *bad*, because *frustrated* by their *subtil enemies*; and we ought rather to seek how to prevent their mistakes, and the errors they committed, then fall into greater by acquiescing in *single votes*, and *Resolves*, or such like *paper ware*.

Sleidan: comment: lib. 5.

What it was that ruined them, it is rather *unsafe*, then *difficult* to explain.

After a reflection upon the condition of our affairs, I concluded that a *Parchment Law*, though never so *fairly engrossed*, could not satisfie them that were engaged in the "*Cause of Liberty*. When the *Ligue* called the *Common-*
"*weale* was on foot against *Lewis* 11. the Duke of *Mil-*
"*lain* sent to his aid five hundred men at Arms, with three
"thousand Foot, and with this power he presents his ad-
"vice, *That he should yield to any conditions to divide his*
"*Enemies, and be careful still to preserve his men.* This
"Counsel was of more advantage to *Lewis* than all the
"Armies he could have Levyed in his Dutchy: for by this
"he kept his Majesty entire, and referred nothing to the
"uncertainty of Fortune. But the former part of his ad-
"vice was a stronger battery against the Enemies design,
"than all the Artillery that Age could make. For to *di-*
"*vide* their Forces, was to *destroy* them, and to bring them
"into jealousie of each other, was to make each the others
"executioner. By which he was secure, at the Enemies
"cost and danger, to work his own triumph. Then for
"yielding to conditions, it was safer for *Lewis* to descend
"one step beneath Soveraign Command, then to be enfor-
"ced to fall down all the stairs: and having both wit and

W. H's. Observations upon History.

" courage he could not doubt but occaſion would preſent " him with meanes to recover, if not tranſcend his former " height. Hereupon at the firſt overture he entertaines a treaty, which ſuddainly took effect; *No demand of the Princes receiving the leaſt deniall* : Whereat they diſſolved their *Forces* and *Ligue*, retiring to take poſſeſſion of what none did enjoy long. Methinks we may learn from theſe, and a thouſand more ſuch like paſſages in Hiſtory, how *unſafe* it is to reſt in a *bare Declaration*, and thereupon to cloſe and unite into an *equall Common-wealth*, with our *inveterate enemies*. It was not an haſty attempt of Sir *G. Booth* to make an Inſurrection, no it was an *univerſall engagement*, if not by *active correſpondencies*, at leaſt in *mind*. The Forces which went upon the *Northern* expedition with the Lord *Lambert*, bear witneſſe to the *generall diſaffection*, and *neutrality* of all that were not (as they commonly call them) *Sectaries*. And I do verily believe, that the quarrel was *Toleration*, or *no Toleration*, rather then *Monarchy* and the *Stuartian* intereſt.

Having here mentioned Sir *G. Booth*, and his Inſurrection, I ſhal deſire you to inform me, *What was the intent of his rebellion*? It is to be preſumed, that his aimes were further then to leave things in the poſture they were in before his arming. His Declaration was againſt *Anabaptiſts*, *Quakers*, and (by which having expreſſed the *two* former he can mean the *Independents* onely) *Sectaries*; and to *ſubvert them without fighting*, ſince that was his Promiſe to thoſe of *Cheſhire*, it muſt have been effected by a ſuddain *Maſſacre* of the *Army* at leaſt. If that was not his *intent*, (as it is diſcretion in his Partizans not to own it now) yet that it would have been as *outragious* an *iſſue*, is not to be doubted, ſince it would not have been *prudentiall*, or indeed *poſſible* for him and his confederates (eſpecially in *London*) to have reſtrained the *affectionate* ardours of an *incenſed rabble*. But ſuppoſe we, Sir *G. Booth* to be *Victor*, *how many* would have been found, the *Houſe* as filled up, and *free* to vote *againſt you*, being *diſarmed*, would have pleaded for your *Toleration*, ſince there are ſo few will do it

now

now that you (and they in part) are in a *different* condition? To ſecure themſelves they muſt have outed you out of all commands, and places of *Truſt*, yea, and purged you from ſerving under them; and having performed thus much, as they could have no *ſecurity* that you would not have *reſented* this procedure, ſo they could not but endeavour to prevent the dangers imminent from ſuch *provocation*. As for the diſ-banded *Souldiery*, it would have been but an *eaſie inſtruction* for the *Juſtices* to *oppreſſe*, and the *Judges* to *hang* them, the ſenſe of their *former actings* making that *Juſtice*, which otherwiſe would be *Barbarouſneſſe*, and the general voyce wil cry out, that all is a *Judgement* upon *ſuch perſons*, though never ſo repugnant to *Juſtice*. It is recorded by a great *Courtier* and *States-man*, "That, if it was not "given *in charge* to them, it was the practiſe of the *Judges* "after the *Iriſh* warrs to hang *Souldiers* for *faults*, which o-"thers did ſcape or obtained *pardon* for. And for others who may by the thoughts of a *competent eſtate* repute themſelves more ſecure, I muſt tell them that it is but a *vain imagination*, if they underſtand who are likely to *rule*, and have the *Militia*, by the *Carisbrook-Caſtle-Treaty*: I would rather bid them read their doome in the *Spaniſh* procedure againſt the *Jewes*, when *K. Siſebutus* did not onely baniſh them all from *Spain*, but by threats and torments enforced ſome to the profeſſion of *Chriſtianity*: (though even *Mariana* the *Jeſuite* ſay, that *It was never eſteemed conſonant to Chriſtian behaviour to compell any to the profeſſion of true piety. Marian. de reb. Hiſpan. l. 6. c. 3.*) and after that under *K. Egica*, ſuch as had concealed themſelves were made *ſlaves* for ever, and their goods confiſcated. So *Ferdinandus* and *Iſſabella*, having conquered *Granada*, (and ſo become ſafe from neighbouring dangers) did baniſh all the *Jewes*, giving them four moneths time to ſell their goods in, after which time it ſhould not be lawfull for any to buy or ſell, entertaine, or *aſſiſt them any way*. You have been in *Scotland* and ſeen how great an Affinity their proceedings have with this demeanour of the *Papiſts*: You know the diſmall effects of their great *Ex-*

If the *Heretick*, or he who falls under the cenſure of the

 communication

Church continue *impenitent*, after admoniti-on by the Minister reiterated three times, on three Sundays, then he is to be declared *Excommunicated* from *God*, and from the society of the Church.

communication, which if it leave a man *Life*, yet it is not as an effect of their *tenderneſſe*, but *cruelty*. ſince he is not onely *incapacitated* as to all *preferments*, but *deprived* of all that might render his *life* a *comfort*, to be *tormented* by ſo much *Charity* as will not let him *dye* : Beſides all the contumelies and indignities that will be put upon them by the multitude, you need not to queſtion but that theſe *Hereticks* and *Sectaries*, (who are now ſo maligned, regretted and occaſionally diſgraced) will be repreſented in their *Memories* to Poſterity, as ſo *vile*, that it will be leſſe ignominious to be recorded in the *Annals* of *Tiburne*.

After which Sentence no perſon may have *any kind of Converſation* with him, (his Wife and Family excepted) in *eating*, *drinking*, *buying*, *ſelling*, *ſaluting*, or *conforming with him*, unleſſe the ſame be licenſed by the Miniſtery : That he finding himſelf *abhorred* by the faithfull and godly, may take occaſion to repent, and ſo be ſaved. And *intimation of this ſentence is to be given through the Realm, leaſt any ſhould pretend ignorance of the ſame.* I have ſet down their own words (and what is the practiſe of *Scotland* as *Col.*---- told me) out of *Spotswoods* Hiſtory of *Scotland*, *p. 166.* that ſo all that are or may be guilty of *Presbyteriall Cenſures*, for any opinions they have, may, or do hold, and for what they have already done or may do, and find themſelves not likely to retreat, may know what to expect from their prevailing.

What aſſyance can you put in thoſe whom your *Victory* and Succeſſe, not *proper inclinations* gain you ? Whoſoever he be whoſe judgement diſallowes a *Tolleration*, his compliance is but temporiſing ; and though *Conveniency* or neceſſity bend him down to ſuch conditions as he otherwiſe regrets, yet do they ſeldome *oblige* the *Conſcience* longer than *Fortune* reſtrains the *Power*. To aſſent unto a *mixture* of the Army with men of an *un-army* ſpirit, though there be a *Select Senate* of the *beſt affected* men on earth, is a preſage of ruine, unleſſe your *Select Senate* be made up of *Davids* Worthies, each whereof could attaque *whole Armies*, with aſſurance of *Victory*. They who to alienate our care for *Self-preſervation*, tell us, that the men we reſent are *honeſt godly men* ; create us no *ſecurity* and do in effect tell us, that we are *villanous caytiffes*, and that to endeavour our *extirpation* is conſiſtant with *godlineſſe* and *honeſty*. To let you a little more ſee how little truſt is to be placed in the combinations with thoſe men,

2 Sam. 23.

behold

behold the Character which *K. James* doth give of them, and after the *testimony* of one who was from his cradle educated amongst them, & *experimented* what he *averrs* (besides what you cannot but have fresh upon your own thoughts) *joyn* in an *equal Common-Wealth* with *them* if you *dare*.

Take heed (my Son) to such (Scottified) Puritanes, very Pests in the Church and Common-weal, whom no Deserts can oblige, neither Oathes nor Promises bind, breathing nothing but Sedition, and Calumnies, aspiring without measure, railing without reason, and making their own imaginations (without any warrant of the Word) the square of their Conscience. I protest before the great God, and since I am here as upon my Testament, it is no place for me to lye in, that you shall never find with any High-land or Border-Thieves, greater ingratitude, and more lyes, and evil perjuries, than in these phanatick Spirits. King James, Basil. Dor. lib. 2.

If the Declarations of the whole world besides prevaile not with you, at least, but learn of *your enemies* what to do. If some body must be *trusted*, (and give me leave to tell you that to erect an *equall Common-wealth*, is to *trust some body*, since you are not likely in such a constitution to be the *Majority*) why do they not *trust you*? May not you, (I hope you do so) have as *good opinion* of *your selves*, as *they* of *themselves*? And setting aside the consideration of *personal uprightnesse and sincerity*, is it not *equity* and *Prudence*, that they rather be *trusted* whose *sense* and *interest* it is to *preserve* a *Toleration*, then they who

who for the *ſubverting* of it lie under the *greateſt motives* that *fleſh and blood* can be *tempted with*, I mean *PROFIT*, *REVENGE*, *RELIGION*, *HONOUR*? Were the caſe inſiſted on, a ſmall thing, I ſhould not thus debate it: but it is no leſs than your *whole fortunes*, and *your judgments*, and thoſe of your *poſterity*, *freedome* as to *purſe*, as to *mind*, all is engaged in this queſtion: and a *power* hangs over your heads (like a cloude out of the North) much more *dreadful* to *tender conſciencs* (if all my reading and intelligence yield me any inſight in things) then the *Romiſh inquiſition*, & in compariſon whereof the return of *Charles Stuart* with his *Biſhops*, would prove a moderate deſire.

But you perhaps will ſay that you are no *Heretick* your ſelf, whatſoever others may be: you are an *Orthodox Independent* of the *Savoyards confeſſion*; you agree with them in all *fundamentals*, it is but a ſmall circumſtance you differ about contained in a *leaf* or *two*, all the reſt is not diſſonant, but that there is a perfect *Harmony* betwixt the two Aſſemblies of *Savoy*, and *Weſtminſter*, Sr. give me leave to undeceive you a little in this point, for that which you alledge as a ground of your *ſecurity*, will aggravate your *fault*, and that wherein you differ is ſufficient for your *extirpation*, ſince it is the main cauſe why others are to be perſecuted. Are you ſo *ſhallow* as to think it is *conſcience* and not *intereſt* rules them? And do you not know that it is worſe to withhold a *Tythe-pigg*, then to deny *Chriſt to be come in the fleſh*. It is an old complaint, *quis Jovinianis, quis Pelagianis diem dixit*? The abetours of free-will; they who thought it *unlawful* to eat *Rabbets* becauſe ſtrangled, or who did not concur about the *Doctrine of the Trinity* (I mention things little and great) as the *Greek* and *Latine Churches*, could retain communion together, whileſt the *Aerians*, the *Waldenſes*, the *Eraſtians* of late were not to be endured? Search the *Books of Martyrs*, you will find more *die* for oppoſing the *intereſt* of the *Clergy*, under the *Romaniſts*; than for profeſſing Chriſt under the *Heathen Emperours*. *John Huſs* ſuffered

ſuffered for writeing *falſe Latine*, and oppoſing the *Popes* and *Clergies* revenues, as you may ſee in the *Council* of *Conſtance*. But Sr. do you think the difference that amounts to 3 or 4 *Pages* in *quarto* to be ſo *inconſiderable*? I have heard a *dappled Preſbyterian* highly commend *Athanaſius*, that he would not grant the *Arians* one *iota*, (I uſe his own words) *this being all the differance between them*; and where are you now, Sr? Beſides, if you examine the differences betwixt you, as *D. Cawdrey* and others ſtate it, you are *Schiſmaticks*, you deny (at leaſt in effect) their *Churches* to be *Churches*, and their *Miniſters* to be *Miniſters* of *Chriſt*, (and this is true) you make them *Antichriſtian*, and then ſhake hands of *fellowſhip* with them; either *condemn* your ſelves for this, or *approve* them. But I will tell you a greater exception againſt *you* than *this*, and for which you muſt into the *ſtool of Repentance*, and whither they will urge you to *repent* in the *ſhort*, or the more *tedious* way, I know not; but I believe the *latter*, ſince you are not like to be a *great perſon*, when you come to this *tryal*; They ſay, if you be *Orthodox* in judgment, yet you have been *falſe* in your practice: you defeated the *holy Synod* in their conſultations by your *conteſts* and *contrivances*, until that *Tares* had over-run the field of Chriſt, and *Hereſies* too deeply rooted themſelves in the land; that you pleaded for a *Toleration* firſt, and now that it is clear *you would give none*, it is *too late*: that you procured you a *Sub-committee*, to *enform your conſciences*, and would not tell them nor the world perfectly what you *thought*, until you publiſhed an *Apologetical narration*, that you were not to be convinced, having ſtudied *as unpartially and unprejudicially as men made of fleſh & blood are ever like to do*, the (*God knows what*, for you explained it not) *points* in controverſy; and for the *Sub-committee*, having *dallyed* with it ſo long as you thought it *convenient*, you gave it over *ſullenly*. If you differed ſo *little*, ſay they, why did you raiſe ſo great *ſtirrs*? why did you ſpeak ſo *darkly*, that we could never come to *an agreement in opinion*, until we come to *agree in one ſingle perſon*?

Sr. G. Booth makes you Sectaries.

And

And after you had agreed in your confeſſion, and reſpects to a *ſingle perſon*; when he who *aſſured you of his heart*, did begin to make the like, or greater profeſſions in the behalf of your reconciled brethren, did not *you* (ſay they) pull him down becauſe he would deſtroy your *Hopes*, not your *Churches*? I know not, nor do I hear of any who converſe with the *Presbyterians* unvailed, but ſayes, the perſon who drew up the *Savoy confeſſion*, is the *Peſt* of this nation, that he either *ſhall receive*, or *merits* an halter: and in the heat of the riſing (which is *infinitely* more a *Preſbyterian-plot*, then that of the *Powder-treaſon* aſcribable to the *Papiſts*) did not —— picture a *Gallows* on his *Lodgings* with this *inſcription* ——— 's *fortune*? How do you intend to ſubſiſt together, and how is it imaginable you ſhould, if it be *tolerated* that you *impale in your aſſemblies* the chief perſons in their *pariſhes*? With what face can you think to invite a man from a way which you will not ſay is *bad*, unto one which you *dare* not ſay is *better*? But let us imagine that you are allowed to ſay your *way of Aſſembling* is *Chriſts way*, and that yours is the *inſtituted*, and *incorrupt way*, (from whence the inference is clear. that what is not *inſtituted* is to be *forſaken*, what *is not of Chriſt*, ought not to be *owned as his*; what is corrupted (and you muſt ſay if you condemn not your ſelves, that in what you differ, the corruption is on their ſide) muſt be *redreſſed*.) Suppoſing this I ſay, how will you perſwade the ſame men that they ought to pay *Tythes* to their *Pariſh-Miniſter*, whoſe *paſtorage* they are not under, and at the ſame time to pay for the maintenance of their elect Teacher? how ſhall an *Independent Father* call to account his *Presbyterial Family*? though you agree never ſo in *Doctrinals*, yet it will be a very great *cenſure*, that each is not under the *diſcipline of Chriſt*. Is any *refractory*? you teach them to reject *Synods* and their *Anathema's*, as inſignificant, humane, *ungoſpel* combinations; how will you then complot that the Nation may be in *peace*, and *unity*? believe them not; who profer you a *Society* that is not *durable*; flie from their *embraces* if you *love your ſelves*,

(and

(and *they* ſay *you do*) as from the *hugges* of *Moloch* where-with that *Idol* received the *children* that were to *periſh betwixt his armes.* As for the *Eſtates* you have got, are not they the *diviſions* of *Deane and Chapter-lands?* And is it not a decree in the *Scotch Diſcipline*, that *all Tythes, Rents, Lands, Oblations, yea whatſoever hath been given in former times, or ſhould be given in future times to the ſervice of God, was the patrimony of the Church; and ought to be collected and diſtributed by the Deacons as the word of God appoints.* That *to convert any of this to their particular, or profane uſe of any perſon, is deteſtable Sacriledge before God.* And elſe-where, *Gentle-men, Barons, Earls, Lords, and others, muſt be content to live on their juſt rents, and ſuffer the Kyrke to be reſtored to her liberty.* What this liberty is follows in the ſame place, *All things given in hoſpitality, all rents pertaining to Prieſts and Chanteries, Colledges, Chappelries, Fryeries of all orders, the ſiſters of the Seynes, all which ought to be retained ſtill in the uſe of the Kyrk.* Give them but leave to take their breath, and expect the reſt: *The whole revennues of the temporalties of the Biſhops, Deans, and Arch-deans lands, and all rents pertaining to Cathedral Kyrks.* Then ſuppoſing an objection that the poſſeſſours had leaſes and eſtates, they anſwer, that *thoſe who made them were thieves and murtherers, and had no power to alienate the common good of the Kyrk.* That this is their judgment, it is proved by the Author of the *Warning, to beware of Scotch Diſcipline*, who tranſcribes what I have ſet down out of their very *Book of Diſcipline.* And with his aſſertions does agree what *Spots-wood* in his Hiſtory of *Scotland*, out of Authentick acts, doth relate. Pag. 164. It is true, that in the ſame declaration they wiſh recompenſe *to be made to ſuch as have deburſed ſums of money to thoſe unjuſt poſſeſſours:* but they do declare, that it is to be but a *reaſonable recompenſe*, into which the *profits of the years paſt are to be reckoned.* And there is another *proviſo*, that the ſame have not been *bought of late, in prejudice of the Church, and no colluſion uſed.* This you may ſee in *Spots-wood*,

P. 164. So that if they prevail, however they may ſtroak you, they will not want pretenſes to undoe you upon the principles aforeſaid, when explained and improved by a *prevalent authority*, which is to be wholly at the devotion of their *Synods*. Nor ought they now to cajol you into a complyance, ſince to my knowledg under *Richard*, it was all their talk, to make you degorge, and that you ſhould repute it a favour in extraordinary, if you were repayd what you diſburſed, without being queſtioned for *paſt profits* and *dilapidations*. No, it is not in the power of a few men of complying principles or pretenſes to aſſure you of an after-reckoning, where the *Emolument* is ſo great, the means ſo *facile* and *plauſible*, and if the injury be any, it is but offered to the *Egyptians*. Let the preſent partiſans (of whoſe minds you are uncertain, becauſe proſperity and power infuſes new thoughts) ſpeak you never ſo fair in a *Convention of Presbyters*, it is in vain to mention *prudence*, eſpecially where it is ballaned with the *cauſe of God, and intereſt of the Kingdome of Jeſus*: not the moſt *meek* and *moderate*, but the moſt *fierce* ſway there, and the moſt *zealous & hot* is the better *Chriſtian*: So that it is not to be doubted, but an *aſſembly* in *England* as well as *Edinburgh* (in 1647) may conſtitute, *that the next Parliament, the Church ſhould be fully reſtored to its patrimony, & that nothing ſhould be paſt in Parliament till that be done*. Behold, I give you a fair warning: Theſe inconveniences will befal you, when you will have nothing left you in your power but an *unprofitable repentance*, when the *ſenſe* of your being deceived will be an *additional* to thoſe miſeries, which are otherwiſe *unimaginable*. A thouſand things alſo more will be objected unto you *Savoyards*, whoſe principles all *Sects* go upon, and differ from you in *Superſtructure*, not *foundation*: I ſhall not urge you any more in a caſe ſo *tickliſh*, and wherein I doubt not but you underſtand your adverſaries: if they have not written hitherto againſt your confeſſion, it is becauſe your *Deaths* or *exile* will be more *beneficial* to them, and they will not ſpoil *this opportunity*, by a *previous Alarm*. I had intended to preſent you with a *Sermon* (ſuch as aſſuredly will

be.

be made againſt the *Army*, when ſcattered) at the firſt *Presbyterian Cruzada* that ſhall be, but I find my ſelf to enlarge too much: I ſhall therefore omit it this time, and reſume our diſcourſe about the *Select Senate*.

After we had debated the fore-going examples of a *power* eſtabliſhed for the ſecuring a people in their *Liberties*, I mentioned *one more* concerning the *Juſtitia* of *Aragon*, out of the conſtitution of which *Kingdome* (it being made up of men not much different in *temper* from the *Engliſh*, rough-hewen, and ſturdy Mountaneers) much might be drawn for modelling of us into a Settlement: I ſhall now give you a more full account thereof.

About the year of our Lord, DCCCXLII. *when* Sanctius Carſias IV. *King of* Suprarbia *was ſlain by* Muza Abenheazin *and the* Moors, *the* Suprarbians *and* Aragoneſes (*who were ligued with them under an* Earl) *which eſcaped out of the Battaile, fled into the Mountaines together with their Wives and Children, and did there imbody and fortify themſelves, living upon the ſpoiles which they got from the* Moores *who then poſſeſſed* Spaine. *Being deſtitute of a* King, *they at firſt choſe* twelve Men, (Sennores) *to rule them, ſuch as were of the greateſt prudence, as well as gravity and age. And thus they continued a long time, enlarging their bounds by little and little. But finding that the aforeſaid* Reiglement *was not very ſuitable to the poſture of their affaires, which required a quicker diſpatch of* Counſels, *then was to be found in the* joynt-Government, *of ſo many men, they being to make excurſions upon, and to expect Inroades continually from the* Moores. *Hereupon they reſolve to erect ſuch a Government, as might redreſſe the preſent* Inconveniencies, *and yet not deſtroy their own* Liberty. *They diſpatched Embaſſadors to Pope* Adrian II. *and to the* Lombards, (*whoſe* Empire *was indeed overthrown then, but many eminent perſons of that People were in being, and the memory of their well-founded Governments as to* Lawes *and* Civil Liberties *was renowned every where*) *who adviſed them, That they ſhould* firſt of all *agree upon ſome* FUNDAMENTAL LAWES, *Righs and Liberties to*

This following diſcourſe is moſt extracted out of *Hieronyme de Blancas* native of *Saragoſſa*, Cronologer of *Aragon*, who wrote whileſt as yet the *Juſtitiate* was in being, and made it principal buſineſſe, to diſcover the nature of that Office out of the moſt ancient and authentick Records, and dedicated his *Commentaries* to the eight *Deputies* of *Aragon*, Protectors of the *Juſtitia*.

be inviolably observed; and then choose them a King (*no* Forreigner, *but such as for whose good inclinations they might have the security, his* birth *and* allyances, *and* education, amongst them *could yield*) *of such* extraction *as not to disgrace the* dignity, *nor yet of that* power *and* meanes *as to be* able *to subvert their* Foundation-Lawes. *Whereupon the* Suprarbians *and* Aragoneses *did agree upon the* Fueros *or* Forum Suprarbiense, *being* certain Lawes to be preserved immutably, *however the King with the* Cort-General, *or General Convention of Estates might make a* further provision of Lawes, *as they should see occasion, without retrenching upon what was the* Foundation *and* Basis *of the* Government instituted. *I shall not trouble you with all the particulars that were forever, to be incapable of Alteration; they being for ought I can judge, not very materiall to our affaires or my purpose; Though it be well worth your Observation* (*in opposition to some that are excellently versed in* Politicks, *and use high* Rodomontado's *to decry even the possibility, much lesse the plausibility of such* Acts) *That* by the advise of as wise men as ever the world produced, upon many yeares mature deliberation, the Aragoneses did in the erection of their new Government, previously agree upon some things that were to be immutably preserved by their Trustees. *And it is registered for an* everlasting Memoriall *in the Proeme to their* Fueros, *or Lawes*; That their Lawes were first made, and afterwards their Kings. *However I shall repeat some of them.*

Of the nature of *fundamentals* in reference to their *mutability* by the *people*, I shall speak more in the close of the letter.

Apud nos prius leges candidas, quam reges creatos fuisse. *Io Blanca.*

IURA DICERE REGI NEFAS ESTO, NISI ADHIBITO SUBDITORUM CONSILIO.

It shall not be lawfull for the King (*who was to do nothing of moment but by the advise of his Council*) to enact any Law, but by the advice of his Subjects in Cort general.

BELLUM AGGREDI, PACEM INIRE, INDUCIAS AGERE, REMVE ALIAM MAGNI MOMENTI PERTRACTARE CAVETO REX, PRÆTER QUAM SENIORUM ANNUENTE CONSENSU.

Let

Let the King take heed how he make War, conclude a Peace, or Ceſſation and Truce, or intermeddle with any buſineſſe of great moment, otherwiſe than by the Advice and conſent of his Sennores, *that are to be of his Councill.*

For the ſecuring of them in theſe (and other) Fundamental Conſtitutions, *it was agreed upon, that there ſhould be a* Magiſtrate *ordained, who ſhould make it his* duty *and* buſineſſe *to ſee that their* Lawes and Liberties *were no way infringed, unto whom there ſhould lye an* Appeale, *or any other Officer, if any* private man *were wronged, and who ſhould defend the Republick, if the* King *did* oppreſſe, *or* go about to oppreſſe *that.*

NE QVID AVTEM DAMNI DETRIMENTIVE LEGES AVT LIBERTATES NOSTRÆ PATIANTVR, IVDEX QVIDAM MEDIVS ADESTO AD QVEM A REGE PROVOCARE, SI ALIQVEM LESERIT, INIVRIAS Q. ARCERE, SI QVAS FORSAN REIPVB. INTVLERIT, IVS FASQ. ESTO.

And leaſt we ſhould ſuffer any detriment or diminution in our Lawes, and Liberties, let there be an intermediate Judge appointed, unto whom there may lie an appeale from the King, if he wrong any man, and by whom the State may be righted, if it be any way injured.

After they had long debated theſe Fundamentals, *and* agreed *on them, they took a* long time *to eleſt a King, and at laſt* Anno Dom. DCCCLXVIII. *They fixed upon* Innicus Ariſta *King of* Navarre *to be their* King, *who being to ſwear to the obſervation of all theſe* Fundamental Lawes, *before that they would make* Oath of Fealty *to him*, Innicus *was at firſt ſurprized at the Office of IVSTITIA, as thinking it a very* hard *condition for a* King, *to have another to Judge of his Actions, and watch him, being*

Non Roy de nom, mais le Maiſtre des Roys.

But after a ſerious debate with the Suprarbians *and* Aragoneſes *(whom I ſhall henceforward call by the name of* Aragoneſes

ragoneſes *in generall*) *having heard their reaſons, how* Monarchy *was of that nature as even to debauch the* beſt *men, and though the King ſhould not infringe their priviledges, yet could they find no ſatisfaction therein, ſince* he might if he would; *another procedure than what they had taken would reduce all to a dependance upon the goodneſſe of the* King, *and not their* prudent contrivance; *That if they ſhould hereafter fall into* ſlavery, *having been perfectly* free, *the regret would be inſupportable, being at once to lament their* miſery *and* folly, *which had precipitated them into it, and mourn, that being likely for ever to deſire* Freedom, *they did not provide for the* perpetuation *thereof. That for a King to be* bound *to what was* good *and* juſt, *was not to be in* Fetters, *or wear* Manacles; *That he might be as ſure of not being affronted by the* Juſtitia, *as he was of his* good deportment.

That ſuch a Magiſtrate could not create any Diſturbances, *but to which he muſt give* cauſe, *and if the Nation did happen to fall into any* Diviſion *and* Warre; *though it be true that all* Commotions *are* grievous, *yet ſome are* neceſſary, *and* honeſt, *and to be preferred* (*as Phyſick to diſtempered bodies*) *before a* peaceable *yielding to* Oppreſſours.

His hominibus diligenter perpenſis omnes ad unum Scriptores teſtantur, non potuiſſe eundem Innicum Ariſtam *Regem vehementer non probare præclaram illam, quietæ vivendi, apertamque, ſimplicem, ac directam viam a noſtris omnibus conſtitutam, adhibitamque ab ipſis omnium, incommodorum cautionem.* Sa Blanca.

In fine, Innius Ariſta *having weighed theſe Diſcourſes, it is the* univerſall *aſſertion of* all Writers, *that he did* highly approve *of the* Conſtitution, *as* Innocent *and* Prudentiall, *and of his* own accord *did add to their primitive* Fueros, *this* Law *or* Priviledge.

SI CONTRA FOROS AUT LIBERTATES REGNUM A SE PREMI IN FUTURUM CONTINGERET, AD ALIUM, SIVE FIDELEM, SIVE INFIDELEM, REGEM ADSCISCENDUM LIBER IPSI REGNO ADITUS PATERET.

If

If he ſhould any way oppreſſe the Kingdome hereafter, contrary to the Laws and Liberties thereof, then it ſhould be free unto the People to chooſe or call in another King either Chriſtian, or Infidell.

The Aragoneſes *refuſed the Liberty of recurring to an* Infidell *for Aide or Protection, but engroſſed the reſt as a* Fundamentall Law, *and ſo it was accounted in the time of* Philip II. *King of* Spaine, 1592. *when they took up Armes againſt that King under* Joannes Nuca, *the* Juſtitia, *in defence of their Priviledges.*

The Juſtitia *of* Aragon (*I ſhall conſtantly terme him ſo, though he be not ſo named in the* Fueros, *and was called ſometimes* Juſtitia Major, *and* Juſtitia Regis, *or* Juſtitia per manum Regis, *and the* Juſtitia *of* Saragoſſa, *but the moſt univerſal Title given him for ſeveral hundreds of yeares in the* Aragonian *Hiſtories and Records, is* Juſticiado de Aragon) *He was to be* elected *by the King* [*and his Councill which was made up of twelve* Sennores *or* Ricos Hombres *at firſt; and afterwards of eight Deputies of the* Cort general] *but being* once Elected *he held it for* Life, *unleſſe the* Cort general (*before whom he might be* accuſed, *which practiſe was afterwards commuted into a* Committee of Seaventeen, *ſtyled* Forus inquiſitionis Officii Juſtitiæ Aragonum, *or,* Inquiſitors into the deportment of the Juſtitia of Aragon) *did think fit to* depoſe, *or* puniſh *him; which latter was performed according to the injury he had done any body either in* life, limbe, *or* eſtate, *he being to ſuffer the ſame, but his* Sentence *was never to be* reverſed.

The Juſtitia *was to reſide about the Kings perſon, whoſe Court being commonly at* Saragoſſa (*after it was taken from the* Moores) *the* Juſtitia was there too.

He was to be preſent at the Kings Councill *when he pleaſed, and I find his name often at the* Regal Charters, Deeds *and* Conveyances.

He was not to be one of the principal Nobility, *ſuch as they called* Ricos hombres de natura, *and* Ricos hombres de meſnada, *becauſe they could not be puniſhed with* death, *or any* corporal puniſhment, *unto which the* Juſtitia *was lyable, if*

of ye were found to merit it : though in all the Aragonian *History, I do not read of any complaint made against him by the* people, *or that any of them was ever* punished *in any manner for* injustice *by the* Cort General, *or* Inquisitors.

The Justitia *was not to be an* inferiour person, *nor a* practitioner at Law (*though many of them were excellent Lawyers, as* Salanova, Cerdanus, *&c.*) *but he was to be* Miles, *a Cavallero, and his way of proceeding was not by way of tedious process, Lawyer like, with nice debates and critical disputes, but* breviter, Summarie, et de plano, sine strepitu, et figura judicij, *by a brief proposal of the case, and collation with the positive* Letter of the Law. *If he had been one of the* Ricos Hombres, *he might have made use of the* justitiate *to his own designs, having an army at command constantly of his own creatures; and if he had been sordidly educated, or accustomed to receive fees, protract* cases, *and countenance the most* notorious corruptions, *the Office would soon have become prejudicial to the* publick.

As the *Justitia* was not to proceed in his decisions by *juridical* debates, and tedious contests upon *strained interpretations* of the *Fueros*: but diligently to regard the tenour of the *Law*, and *observances* or *usages* of the Nation.

But I observe the Aragoneses *were no such friends to* Lawyers in practice, *as to prefer them to any place of* trust *and* power, *for they were not only excluded the* Justitiate, *but they could not be of the* Inquisitors *into the* Justitia's *actings, though the* Inquisitors *were to advise with them, and then to dismiss them before they came to definitive sentence. The Justitia had several* notorious *Lawyers, and two Deputies,* Lugartenimentes del justitia de Aragon, *of the same profession, to assist him in Court, and preserve a forme of dispatch and management of things.*

And in all their Courts that people made it their rule, that the *Laws should not be extended by the Magistrate,* but that he as well as the people should be obliged by them: So that it is truly said by *Blanca,* It is *our laws that speak, and the judges are but dumb Executers of them.* Unde vere dici potest, leges nobis esse loquentes; mutos autem earum Ministros Magistratus. And at the conquest of *Valentia,* when Laws were to be made by the *Aragoneses* under *Jacobus* 1. who subdued that Kingdome: though it was moved, that the new Lawes might be penned in *Latine,* or *Aragonese,* it was resolved they should be written in the language of the countrey, which though conquered was to be ruled by them, the *Aragonese* and others their *Auxiliaries,* being principal Lords, the reason of which is given by *Bernardinus Gomesius* in Vit: reg. Jacob. l. 12. *Rex plebiscita & municipales leges Valentinis dedit vulgari conscriptas sermone, ut populo melius innotescerent; ut perspicuitate, a varia eas, confusæ sæpe, interpretatione*

one juris, et captionibus assereret: whatever might be said for the *elegancy* or *antiquity* of the *Aragonian* language, or for the *Majesty of the chief conquerours*, that the Laws should not only be given *by them*, but in *their language*, yet he thought that it would be more for the convenience and unity of the Realme, that a *few* should learn the *vulgar tongue*, [which was not the *Saracen* but *Aquitan*, whom he planted there as the people] then that all should study the dialect of the *nobess*: that it would alleviate the sense of their subjection, and also be for their benefit, since the *Laws* hereupon were *perspicuous*, and freed "from *variety* and *confusion* in *intempretations*, and *captiousness*." He made the *utility of the* "*people* his design, and not the *interest of a few*, or his own glory: he thought those Laws "to be *elegant* enough, which were *plain* and *intelligible* unto those who were to be *ruled by* "*them*. He did not propose unto himself the advantage of a sort of men to be bred up as "*Assessours* or *advocates*, without which the Country should be at a stand, and not know "how to determine any thing. No, this was far from that Kings intention, who did "therefore contrive Laws in the vulgar tongue, that he might exterminate out of the Land "the verious, subtile, spiny and difficult interpretations, the unavoidable consequen-"ces of Laws being written in a forraign tongue, together with their interpreters them-"selves: and if there happened any doubt in Law, which might retard the Judges in their "decision, it was not remitted to them, but to the judgment of a certain number of "honest and plain men, who were to inquire into the true and naked state of the case, and "pronounce accordingly. There being nothing more popular than that when doubtful "cases arise amongst the people, they be determined by some of their own degree and "rank: for they will think well of them, but as for professours of Law they will suspect "and hate them, as being to live by the litigiousness of the people. This is the account which *Bernardinus Gomesius* a native of *Valentia* gives of their Laws original: In favour of my *Aragoneses*, I shall observe out of *Bodin* a famous *Lawyer*, that the good government of the *Ethiopians*, (civil rights are no where better preserved) subsists without Lawyers. And *Ferdinand* K. of *Spain* prohibited any *Lawyers* to go into the *Indies*, least they should instruct the people *in the way of contention*. The same man condemns *Matthias Corvinus*, K. of *Hungary*, for inviting by large Salaries several *professours* and *Practitioners of the Law* out of *Italy*, to teach a people ignorant of those arts the *intrigues* of contention; the issue of which project of the *King's* was, that in a *general convention of the States*, he was desired to banish again all *Lawyers*. He saith that it is natural for the *French* to be litigious, and that he would destroy that countrey who should bring the *Lawyers* practise into disuse; but as for more northern nations, and particularly *England*, it is but an introduced custome, not founded on the *natural inclination* and *genius* of the people, whereunto it is altogether unsuitable, and is no other then a *French* fashion, *Gallia causidicos docuit facunda Britannos*. And this is the judgment of *Bodin*, (de repub. L. 5. C. 1.) then whom I think the world never yet produced a more solid and judicious writer, one who had studied *men* as well as books, and had been particularly in *England*, and honoured with the *familiarity* of Q. *Elizabeth*, and others of the Nobility.

What Salary *he had I cannot inform my self, it not being expressed, but only in general: but doubtless his Revenue and Maintenance was with convenient* Port *and* State: *though it was not so great as that he should over-ballance affairs. At such time as he did not act as* Justitia, *but Coun-*

 sellour

ſellour to the King, *I find him ſeated by* Petrus de Luna; *(being* Pope*) below the* Ricos hombres, *though it is to be granted they lived in a pomp not much inferiour to* Kings; *which made* Alphonſus 3. *ſay,* quando havia en el Regno tantos Reges, como Ricos hombres. *And in ſubſignations of* Charters, *&c. wherein he acted only as* Counſellour *or* Witneſs, *I find him ranked after the* Ricos hombres, *and* Biſhops, *yea and* Zalmetina *or Chancellour of* Saragoſſa.

As for his Power, *if any* Judge, *yea or the* King *himſelf with his* Council, *or otherwiſe, were* paſſing or executing a Sentence *upon any* Man, *or* Men, *he might* inhibite *upon complaint,* Avi, Avi, fuerza, fuerza, (*for* without complaint *he was not to intermeddle*) *the* proceſs *or* execution, *until he was ſatisfied that all was* legally *done. He had a particular priſon called* la carcel de los manifeſtados, *whither he did remove* Priſoners *if they implored his help, and to prevent all inconveniences and dangers eminent, he could iſſue out a Writ called* Juriſfirma. *He was* Supreme interpreter of the Laws, *and therein Paramount to the* King. *He did determine of the* Kings Letters mandates, (*yea and the Reſults of the* Cort general, *which were managed by him* Segũt fuero, e Segũt antiquam ẽt fue a coſtũbrado.) *whether they were repugnant to the Laws and* Obſervances (*ſo they call their* uſages, *they having but few* written Laws) *or not; and whether they were to be obeyed, or not. He had power to iſſue out his* Inhibitions *unto the greateſt* perſons, (*yea* Cities *and* Kingdomes *not ſubject to* Aragon, *though under the* ſame King, *if the King failed; and take* exemplary puniſhment *of them*) *and the* King *himſelf was* upon appeals *ſubordinate to him, and to obey him, though his Writs did run* (*even to the* King *himſelf*) *in the* King's name.

(i.e) *help, help, force, force.* Jura noſtra pleniſſime vetant ut quicquam fiat niſi ad illius, cujus principaliter interſit, inſtantiam: nempe quia majores noſtri voluerunt, ſui quemque juris & retinendi & dimittendi eſſe dominium, idque nervos eſſe atque artus libertatis. *Blanca.*

Before he came to any definitive Sentence, *he was to ſummon all the* Lawyers *in* Saragoſſa, *or* (*if he were any where elſe*) *that could well be procured, excepting thoſe that were* de partida, *retained by the perſons concerned; and to take their advice, and according to the* majority of their Votes, *he was* afterwards *in his own Court to pronounce Sentence:*

and

and the Sentence ſo given was called, Determinatio conſilii Juſtitiæ Aragonum, *and was of as much validity as if it were a* written Law. *Afterwards in* Criminal Cauſes *it was thought ſufficient that he ſhould have* ſeven Lawyers *to adviſe with, which were called* Los Siete de la Rota.

To make his judgment *ſignificant, and that it's* Execution *might not be ended, and his* Authority *thereby become* contemptible *and unſerviceable to the preſerving of the* fundamental conſtitutions, *and other* Laws *in being; he had from the beginning of that Kingdome unto* Petrus 4. *King of* Aragon, *ſirnamed the* Ceremonious, *in* 1348. *a* power *to call together (without any pretenſe for refuſal) all the* Ricos hombres, *and to arm* City *and* Country *immediately for the effecting thereof, without long temporiſing. This was called the* priviledge of Union, *it being thereby according to the* Fundamental *Conſtitution* Lawful, *and no way to be accounted* Ignominious *and* Rebellion, *for the whole Country,* Los quatro Brac,os del Regno, *to arm againſt the* King *in the behalf of the* Juſtitia, *or (as ſometimes happened) in favour of the* King *againſt the* Nobles *or* Ricos hombres.

But to preſerve the conſtant repute of the Juſtitia; *At the* Cort general de Aragoneſes, *or general Aſſembly of the States, the King ſate upon thrones to an heighth more than ordinary above the reſt, then at his feet, yet higher than the reſt, was placed the* Juſtitia *of* Aragon *in great Majeſty, and though the King were there, yet was he* Preſident *of the Cenvention, and ordered every thing according to his* Fueros; *he adjourned, or prolonged the Aſſembly, even the King being preſent, but in the Kings name. This* Cort general *was held at firſt every* two years, *and afterwards every* three *or* four years, *to enquire into the* national conſtitution, *the* Exchequer, *the deportment of the* Juſtitia, *and the like; as alſo to* recognize *the* power *of the* Cort general *and* Juſtitia *according to the* fundamental Fueros. *It is very remarkable that was done in this* Cort. *Whenſoever the new* King *was to be enſtalled, or rather* made (*for though the* primogenito *or* eldeſt Son, *or* next heir, *did* ſucceed, *yet did not he come to it by way of* inheritance, *being not to exerciſe the power or*

own the title of King, *untill his enſtalment in the* Cort general) *a general Aſſembly of the States was ſummoned, and after that the* Corte *was opened by a ſpeech of the* primogenito (*as* general Governour *by place after the deceaſe of his* Father: *at other times the* Kings *did it*) *to the States, and an anſwer of theirs returned by the* Biſhop *of* Saragoſſa, *then the* Juſtitia, *being deſired thereto, made an enquiry ixto the* Legality *of the* Corte, *and what Members were abſent, whom after three dayes expectation* (*ſummoning them formally each day*) *on the fourth he fixed a Mulct on them, and declared that their abſence did not impair the Authority of the* Cort general. *Then the* Juſtitia *in his* habiliments, *and having written on his breaſt,* IVS ARAGONICVM, *or* The Laws of Aragon, (*after ſome conſultation with the* Corte) *tendred him an* oath, *that he will inviolably preſerve the* Fueros *or Laws & Obſervances of* Aragon; *having firſt accoſted him with this addreſs,* NOS QVI VALEMOS TANTO COME VOS, Y PODEMOS MAS QVE VOS, VOS ELEGIMOS REY: CON ESTAS Y ESTAS CONDITIONES: INTRA VOS Y NOS, VN QVEMANDA MAS QVE VOS. *That is,* We that are as great as you are, and are of more power than you, have choſen you our King, upon theſe and theſe conditions; betwixt you and us, there is one that is of more power than you; *After that the* King *had made Oath to the* Juſtitia, *then the* Juſtitia *and reſt of the Aſſembly ſware* fealty *to the* King. *And this Ceremony was reiterated every* Cort general, *with as much ſolemnity as at the firſt* inauguration; *and the* laſt day *of the Seſſion, when all things that were agreed upon to be paſſed, were ratified and ſworn to by the* King *firſt, and then the* Juſtitia, (*all running in this form,* El Señor Rey de voluntad de la Corte eſtatueſce y ordena) *from this* ceremony, *that day is called,* El dia de la celebracion del Solio, *or* the day of celebrating of the inauguration.

Hottoman: Francogal: P. 123. Junius Brutus in vindic. contra Tyr. qu. 3. Anſwer to misled *Dr. Fern.* P. 18.

And indeed, before I paſs any further, I cannot chooſe but reflect upon the admirable contrivance of this Government,

ment, that each Officer might know his duty, the *King* his power, and the *Justitia* his, and the Peoples Soveraignty ſtated, ſo as they who were moſt willing to forget, could not; and the People were hereby ſo *animated*, as no perſwaſions ſhould work upon them to think or aſſent to, that *where the word of a King is, there is* more *power*, then he ſaw biennially attributed to him. God in the *Jewiſh* polity ſeems to evince the utility of theſe *recogniſances*, that the Magiſtrates may be put in mind of their *original* and *duty*, whileſt he enjoyns, that *the King when he ſitteth upon the Throne of his Kingdome, that he ſhall write him a copy of the* regal *Law*, or that according to which he was particularly to demean himſelf, *in a book, out of that which is before the Prieſts and the Levites; and it ſhall be with him, and he ſhall read therein all the dayes of his life, that he may learn to fear the Lord his God, to keep all the words of this Law, and theſe Statutes to do them; that his heart be not lifted up above his brethren, and that he turn not aſide from the commandment to the right hand, or to the left*, Deut. 17. 18, 19, 20.

So the *Ephori* of *Sparta* did ſwear their *King every moneth* ſolemnly, that they ſhould rule *according to Law*, and after their Kings had ſworn, then did they in the name of the people *reciprocally* ſwear, that if ſo, they would preſerve them ſafe.

I ſhall now give you ſome account of the deportment of this Juſtitia, *that you may ſee it was no* inſignificant *conſtitution, but that it did merit that commendation which is* univerſally *given it, to have been the* preſervation of their Laws, *and* Liberties. Petrus 2. *laid on the people an* unuſual tax *called* Monedage: *the* Juſtitia *being appealed to by ſome that refuſed to pay it, gave ſentence concerning its* illegality, *and immediately cites the* Ricos hombres, Cities, Univerſities, *and* Corporations *to proſecute his ſentence by way of* Union. *Whereby the King was forced to eaſe the People, and to* recogniſe *particularly in* Cort general *the Law or Priviledge of* Union.

Jacobus 1. *ſirnamed the* Conquerour *had, by reaſon of dangers imminent from the* Moores, *procured the grunt of a* Tax *from the* Catalonians, *termed* Bovaticum, *to be raiſed upon* every head of Cattel; *he deſired the like conceſſion from the* Aragoneſes *in* Cort general, *the* Nobility *refuſed to pay, and all were upon ſo high terms that the* Corte *broke up.*

Monetaticum.

Gomez. In Vit. Jacob. 1. lib. 16.

up tumultuarily, and not by a legal dissolution: Since neither King *nor* People *did recur to the* Justitia, *he could not* interpose, *nor did he. Things came to an open War, and after some skirmishes and conflicts, the* Nobility *did invoke the* Justitia, *(in the constitution of which Office this* King *by long Wars attended with* conquest *and* plantations *of additional forraign strengths, had introduced some* corruption) *who forthwith took cognisance of the business, issued out an* Inhibition *or* Jurisfirma *to the King, to stop the proceedings of his* potent *and* victorious *Army, and in a* peaceable manner *determined the whole controversie, and so disposed the* King *that a* Cort general *was called, and all abuses or inconveniences in the* Justitiate *were redressed.*

Alphonsus 3. *the* Munificent, *having disgusted the* Aragoneses *by assuming the title of* King, *before his acknowledgment and oath made to the People in* Cort general; *they began to be jealous of their Liberties, and fear that* additional conquests *would be more dangerous to them in the* end, *than they were at* present *beneficial: upon this account in the first* Cort general *at* Saragossa *they began to debate upon some Laws whereby to prevent* future *perils: The King resented their actings, though they pleaded their* Fueros, *and disorderly withdrew from the* Corte. *This last departure of his being also contrary to the* Fueros, *they in* Corte *appealed to the* Justitia, *who takes cognisance of the thing as a violation of* Priviledges *and* Laws, *and puts in force the* Union *against the King.* Alphonsus *to allay this storm, being at* Osca, *by the advice of some Counsellours that were with him,* makes *and* publishes *several extraordinary* good *and* plausible *Laws, and such as would have quieted all mens minds, had they been passed in* Corte, *and not by the King and a few Counsellours. The dreadfulness of this* President *made them more vigorously prosecute the* Union, *that* in a little time, *they so humbled the King, as to assent to their desires and recognise the priviledge of the* Union *solemnly. After this all was quiet, and never was any King more revered and beloved than he after that passage.*

Under Jacobus 2. *the* Cavalleros *murmured at the King for*

for depriving ſome of them of their Cavallerias, *or Lands which they held in* Knights-Fee, *and diſpoſing of them, and others, contrary to the* Fueros *of* Suprarbia: *and hereupon they* combined *together unanimouſly againſt the* King *to right themſelves without ever troubling the* Juſtitia. *The* King, *being in ſome ſtrait, proteſts he had not* wronged *them, at leaſt not* wittingly, *and appeals to the* Juſtitia, *according to the* Fundamental Coſtitutions *of the Land.* Eximinus Petri Salanova *being* Juſtitia, *iſſues out a* Jurisfirma *to inhibite the* Cavalleros *from all violent actings; The* Cavalleros *proteſted againſt his Authority; for being that they charged the King with breach of his* Coronation-oath, *they ſaid the buſineſs was not to be decided by a* Secular, *but* Eccleſiaſtical *Judge and* Arbitrator. *But the* Juſtitia *peremptorily decides the Controverſie; declares their* combination *to be* illegal, *though to* Unite *were not, and conſequently that the* Oaths *they had mutually taken, and the Hoſtages they had given to each other, the former to be* null, *and the latter to be* reſtored *again. And further reſolves it, that the* Cavallerias *were in the* Kings diſpoſal, *though their* Lives *&* other fortues *were not. So he determined this great Controverſie, and diſſolved as great and firmly made a League as one ſhall read of; deſiring the King to deal favourably with them (being ſo numerous and potent a part of the* Aragoneſes) *and neither puniſh them with a* total *confiſcation,* perpetual *impriſonment, or exile.*

It was no Union, but a combination, unleſs made by the Juſtitia.

Under Petrus 4. *the* Ceremonious, *when his brother* Jacobus *was put by the* General-governourſhip (*which appertained to him by Law, as next* Heir *to the* Crown) *by that King, the* Juſtitia *put in practiſe the* Union *againſt him, after the uſual manner, whereby they vindicated their Priviledges. But the King having* Catalaunia *and* Valentia (*being not ſubordinate in Government, though they ſeveral times made up a* Cort general *with* Aragon) *to aſſiſt him, beſides the Kingdomes of the* Baleares, *&c. and having bought off many* Lawyers *and others,* Noble Men *and* Cavalleros *by Gifts,* Honores *and* Cavallerias *collated, he did not value the* Juſtitia *and* Union, *eſpecially ſince the* Juſtitia, Garſias Ferdinandi Caſtrus, *had been his Counſellour*

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and Governour in his Father's time, and afterwards one of his Mesnadero's or domestique creatures, and alwayes expressed a particular inclination for him. So things came to open War, to the utter ruine of the Union. For the King was resolute and fierce, and set to destroy the Priviledges of the Ricos hombres, and their way of Uniting; and the Justitia did faintly prosecute him out of natural weakness as well as personal regards; and at last being not able to reduce the King by fair means to equitable terms, and being loath to see either his friend, or his Country ruined (and possibly not able to endure the contumelies and affronts put on him by such as he ought to have protected) he died, and thereby endamaged them more than by his life. For the Election of the Justitia being in the King, he deferred to make one till he had subdued the Union, which now was become of no Authority (though they did choose Conservators of the Union) by reason there was no Justitia in being. This consideration made both sides hasten to a Battail, wherein after a bloody conflict, the Union was dissipated, and the King absolute Conqueroun, who thereupon made one Galacianus Tarba to be Justitia, who had been instrumental in betraying the Union to which he first adhered; and he did publickly with his sword cut in pieces the Writings containing the Priviledge of Union, and destroyed all the memorials thereof which he could come by, and enacted, that it should never be revived again. As for the Justitiate, it was weakened (though not frustrated) by being turned into a Court of Judicature, and to be managed accordingly, eight men (of the great Personages) being enjoyned in each Cort general to help him in the executing of his Sentence. And it did prove a great protection to the Aragoneses as to criminal Causes, and things of lesser moment, but though the old Solemnities were upheld, yet did not that restrain their Kings from retrenching upon their Fueros, there being no standing Militia under the Ricos hombres to assist him. This happened in the year, 1348. After this it continued in manner aforesaid, (doing sometimes notable service) to the great satisfaction of the now effeminated and degenerating Aragoneses,

until

Jure affirmare possumus, in hoc uno, et regibus & regno civilis tuendæ concordiæ summam extitisse.

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and Governour in his Father's time, and afterwards one of his Meſnadero's or domeſtique creatures, and alwayes expreſſed a particular inclination for him. So things came to open War, to the utter ruine of the Union. For the King was reſolute and fierce, and ſet to deſtroy the Priviledges of the Ricos hombres, and their way of Uniting; and the Juſtitia did faintly proſecute him out of natural weakneſs as well as perſonal regards; and at laſt being not able to reduce the King by fair means to equitable terms, and being loath to ſee either his friend, or his Country ruined (and poſſibly not able to endure the contumelies and affronts put on him by ſuch as he ought to have protected) he died, and thereby endamaged them more than by his life. For the Election of the Juſtitia being in the King, he deferred to make one till he had ſubdued the Union, which now was become of no Authority (though they did chooſe Conſervators of the Union) by reaſon there was no Juſtitia in being. This conſideration made both ſides haſten to a Battail, wherein after a bloody conflict, the Union was diſſipated, and the King abſolute Conquerour, who thereupon made one Galacianus Tarba to be Juſtitia, who had been inſtrumental in betraying the Union to which he firſt adhered; and he did publickly with his ſword cut in pieces the Writings containing the Priviledge of Union, and deſtroyed all the memorials thereof which he could come by, and enacted, that it ſhould never be revived again. As for the Juſtitiate, it was weakened (though not fruſtrated) by being turned into a Court of Judicature, and to be managed accordingly, eight men (of the great Perſonages) being enjoyned in each Cort general to help him in the executing of his Sentence. And it did prove a great protection to the Aragoneſes as to criminal Cauſes, and things of leſſer moment, but though the old Solemnities were upheld, yet did not that reſtrain their Kings from retrenching upon their Fueros, there being no ſtanding Militia under the Ricos hombres to aſſiſt him. This happened in the year, 1348. After this it continued in manner aforeſaid, (doing ſometimes notable ſervice) to the great ſatisfaction of the now effeminated and degenerating Aragoneſes,

until the reign of Philip 2. *King of* Spain, *at what time the* Juſtitia *having interpoſed in the caſe of* Antonius Perez *a priſoner whom the King would have executed out of* reaſon of State, Philip *was hereat ſo angry that he ſent an Army under* Alphonſus Vargas *to deprive them of their priviledges, who pretended he was to march againſt* France, *and not them, and ſo temporiſed with them until it was too late for them to arm, and advance the* Standard *of the* Union: *there was no* ſtanding trained Army, *nothing but effeminacy and luxury in the great men, whom the Gold of the Court had debauched, their Counſels were tedious, being firſt to be reſolved on by the eight (which were the Kings Officers too) and then to be referred to the* Cort general, *which was to be ſummoned by the King, or Vice-Roy; ſo that though the Nation did at laſt Arm, and the* Clergy *preach up Liberty, yet the tediouſneſs of the diſpatch, and their inteſtine weakneſſes concurring, they were not able to bear up againſt a King ſo potent as* Philip, *who was Lord of all the Kingdomes about them, ſo that there was no hope of Forraign aid.*

Thus fell the *Juſtitiate of Aragon*, having continued 724. years, longer than moſt Common-weaths ever did, yielding more *Peace, Security*, and *univerſal Satisfaction* to the People, than any Government I have read of. *Hieronymus Blanca* (who lived when it was in being, only deprived of that quick proſecution which the *Union* afforded, 1588.) gives it this commendation, after a diligent enquiry into the Nature and Hiſtory of it; *That by the means of the Juſtitiate, the Majeſty of their Kings, and the Liberties of the People, both had been preſerved ſtill, and that in a peaceable manner:* for the proſecution of the *Union* was a thing of *ſudden* diſpatch, and never came to much Blood-ſhed, but under *Petrus* 4. This is the Government ſo long debated of, and ſet on foot by ſo many *eminent men* who deviſed it: celebrated by all that mention it; even *Ferdinand* (who married *Iſſabella*) when the *Caſtilian* Counſellours exhorted him to overthrow it as being inconſiſtent with the Majeſty and Grandeur regal:

Jure affirmare poſſumus, in hoc uno, et regibus & regno civilis tuendæ concordia ſummam extitiſſe.

Thuanus Hist. lib. 104. Ac vel ex eo maxime præstans, magnique semper habita, quod in tanto sibi juris, ac præsidendi potestate collata nulli fuit unquam Tyrannidi, neque perturbationi rerum obnoxia Gomez. l. 16.

He did not onely refuse to subvert it, but (though he had experimented an *absolute Monarchy*, and its pleasures in *Castile*) did infinitely praise it. *Bernardinus Gomezius* of *Valentia*, writing the Life of *Jacobus* 1. amongst other Elogies, saith of it, that *Notwithstanding the greatnesse of its Power, the Justitiate was never obnoxious to raise a tyranny, or create disturbances. That it was so far from fomenting divisions, that it appeased or prevented them; so far from debasing the King, that it preserved him; — and that it was by this meanes that the Kings of Spain did receive fewer complaints from Aragon then any of their other Dominions.* In fine, as *Blanca* observes, they continued in the enjoyment of their *Fueros*, when *Navarre* (which refused to erect a *Justitia*, being destitute of a King at the same time that the *Suprarbians* were) had lost theirs. So true it is that the same Author observes, "*Our Ancestors did secure* our Liberties at first unto us by three most "sure Guards: *viz.* The *Justitia*: The great power of "the *Ricos Hombres*; And the Priviledge of *Union*. The "first was a *Civil* and *Forensical* curbe: The second, a "Domestick, and more pinching one: The third, *Popular* and *Warlike*. Nor indeed could there have been less "provision made for it, that it might continue to our times. It fell not to the prejudice of the *Dignity*, or out of any evils it did in it self draw upon the Nation; but when nothing but *arrogancy* and *ambition* would overthrow it, and nothing but *baseneſſe* and *malice* could speak ill of it, when it might have subsisted longer by its intrinsick constitution, and when the People, *Laïety* and *Clergy*, were ready to expose their lives for its continuance.

I should now accommodate my discourse to our present times, and deduce something from the Constitutions of *Aragon*, that might be advantageous to *England*. But as my own *disabilities* and *unexperiencedneſſe* makes it *impossible* for me to serve you herein, so the *sence of your actings* makes me *unwilling* to attempt it. If Scripture had not prohibited me to *meddle with them that are given to change*; common discretion would me better to engage

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my ſelf by *adviſe* with perſons ſo *irreſolute*. Conſider your dealings; I am loath to give a *Name* to ſome of them; but loe! are you not become as *Mungrel Samaritans*, who by the dictate of their *own inclinations*, and the deluſions of *intermixing Prieſts* were brought to divide their ſervice betwixt the *true* and *falſe God?* Do not you now careſſe the *honeſt party*, yet comply effectually with——— Give me leave to be free with you *for once*, I know not whether your *inadvertency*, and the *active malice* of your enemies may not reduce you to ſuch a ſtreight as not to receive a *ſecond Application* from me. The *good things* you *ſpeak* and make ſemblance of *to do*, I know not whether they are your *Raptures*, or your *Reaſon*; your *lucid Intervals*, or your *Phrenzies*: You are *too Mercenary* to be reputed *publick ſpirits*, you are too *publick-ſpirited* to be *Mercenaries*: Nay it may be (ſo uſuall it is for the *moſt Victorious* to be *outwitted*) it may be that there is not *ſuch a man* as *Collonel* ———, it may be you are *ignominiouſly Caſhiered*, and *excommunicated* the *Society* of all the *faithfull and godly*! not to receive a *good word* from them, who never *intended you* more, nor had given you *that*, but to *overthrow you*: or it may be you are not ſo *ſtubborne* but to *expiate* your *former actings* againſt the [*Presbyterial*] Church of *God* by ſome *moneths* Repentance, *ſolemnly* performed in *Margarets Weſtminſter*; It being a thouſand pitties that ſince you *agree in Fundamentals*, and make *one common profeſſion of Faith*, that ſuch a *Ceremony* as the ſtanding in the *Stoole of Repentance* (by which they reconciled themſelves to their King *Charles Stuart* in *Scotland*, and you muſt not expect more *favour*) and the giving up of *one thouſand pound per annum*, given you for the *Arrearage* of Services againſt *your gude Brethren*, ſhould *create any ſtrife*. It may be too, that you are now *in Priſon*, voted *to the Tower*, ſhipped for the *Barbadoes*, or flying into *Holland*; and what I have already writ ſhall never come to your hands. However, ſince I believe that God will diſpoſe of all things for the Salvation of his *dear ones*, and bring your *Freakes* to a better iſſue then your *Counſels*,

I ſhall depoſite with you an *haſty eſſay* towards that Settlement which is expected. Things are brought to that paſſe as if God by his Providence had left you no more to do, then *Moſes*, had to ſecure *Iſrael* after the paſſage through the *Red-Sea*, he did but *ſtretch out his hands*, and the waters returned and covered the *Egyptians*, and they were *ſeen no more*. Do but *dare* to be *honeſt*; and be otherwiſe *at your perill*. But though you do *ruine your ſelves*, yet will not *we deſpaire*: For He who is the *Hope of Iſrael* is *mighty to ſave*: and *His Word* failes not, though *you recede from yours*. He that we truſt in, is the ſame *in the Mountaines* and *Valleys*, in our *Higheſt*, in our *Loweſt* condition, and howſoever you put *men* to a *loſſe* or *ſtand* in *their purpoſes*, you but *carry on His ſtill*.

Miſcellaneous

Miſcellaneous Poſitions concerning Government.

I. ALl men are by nature *free*, and *equally free* from an over-ruling *Magiſtratical Power*.

II. The *riſe*, *extent* and *limitations* of *Magiſtratical Power* is from the *people*.

III. When a *Government* is broken, all men are caſt into their *Natural freedom*.

IIII. When any men *agree* to erect a Government, *they being at liberty ſo to do*, there the Government eſtabliſhed is *lawful*.

V. They who have any ſuch intentions, may appoint *Legiſlatours* for *themſelves*, but not for others directly.

VI. Where there is any ſuch intention in any number of men, and it be *certain*, or *highly probable* that *others* who either live *intermixed* with them, or *joyning* unto them, will *oppoſe* or *ſubvert* the Government which they are going to eſtabliſh: it is *lawful*, and an *Act of ſelf-defence*, to *ſubject* ſuch perſons, or parties, and ſo far to *depreſſe* them, as there is danger of their prejudicing the Government intended.

VII. The *demeanour* of the prevailing party or people towards them that are thus *ſubjected*, is not to be examined by a *rigorous juſtice*, but there is a *great latitude* granted, within which all the *proceedure* is *juſt*.

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VIII. If there be any exceſs in the ſufferings of a party ſo depreſſed, they are to conſider not what the prevalent party does, but what occaſions they give them for ſuch actings: The natural deceitfulneſſe of the heart of men, together with [poſſibly] additional breach of truſt or inconſiſtency of principles, and the greatneſſe of the danger upon any miſcarriage, juſtify a *Scrupulous* ſeverity.

IX. It is the *duty* of a prevailing party to give every perſon his *due liberty*.

X. So much *liberty* is due to ſuch as *oppoſe* or are *inconſiſtent* with the *riſing Government*, as may conſiſt with the continuance thereof.

XI. To allow them more, is in the *Legiſlatours* a *breach of Truſt*, they being to make laws for the preſervation of them who entruſt them: and in the *people themſelves*, if they ratifie ſuch conceſſions, not onely *folly*, but an *unlawful*, *unwarrantable* Act, being a *neglect* of that *ſelfe*, the *love whereof* is to regulate our love to others.

XII. Where there are two or more parties diſagreeing as to the erection of a Government, and but one agrees to this *determinate form*, there the *Magiſtrate* hath a *direct* power onely *from* and *over them*: his power *over others* is indirect, & in order to the ſafety of thoſe who impowred him.

XIII. There is a great difference betwixt the liberty of men by nature, and that which they enjoy under Government.

XIII. By *Nature* a man is *abſolved* from *all lawes* but ſuch as God hath *imprinted* in his *ſoul*, or *revealed* unto him by his *ſpirit*: in a *conſtituted Government* he is obliged by *acceſſional orders*: by

nature

nature there is no *property*, but his *poſſeſſions* are as *great* as he can make them: in a *conſtituted Government*, things are not ſo, but the greatneſſe of his *poſſeſſions*, and the *manner* whereby he is to *attain*, *maintain* and *diſpoſe* of them, all depends upon *lawes* agreed upon by the *whole people* engaged into that *polity*; and every man living under it is to be *preſumed* to have given away all thoſe claimes which are prejudicial to the durableneſſe of the league contracted. So that in a Government it is *perfect liberty*, *if men with ſecurity enjoy what they honeſtly get under ſuch lawes as they themſelves enact, or chooſe who ſhall enact*, (and can repeal them, if they be found grievous) *and none of them be ſecluded from Government, and making or executing their own lawes by any ſuperiour power, but by accidental circumſtances, as defect in abilities or eſtate, (and the like) whereby to be able to diſcharge ſuch places.*

XV. Humane *prudence* is not to be neglected in the *choice of Governours*, or erection of *Government*.

The innocence of Doves is not more enjoyned, then the wiſdome of Serpents, ſuch prudence doth not repugne to godlineſſe, it being the very gift of God, *prayed* for by *Solomon*, 2 Chron. 1. 10. *Give me wiſdome and knowledge, that I may go out and come in before this people; for who can judge this thy people, that is ſo great?* and for *which prayer* God doth highly commend him, and as a bleſſing for ſo diſcreet a choiſe God gives him riches and honour; that which he deſired, was not that *wiſdome* which ſhould qualifie him in the condition of a *Saint* but in the *regal poſture*, viz. *wiſdome and knowledge, that he might judge his people.* The conveniences attending the Purſuit whereof, and the inconveniences following upon its neglect, are ſo publiſhed in Scripture *Prov.* ch. 1. 2, 3, 4, 5. that he may juſtly deſerve to become a *Proverb* himſelf who doth vilifie it.

Godlineſs and Saintſhip is ſo far from being the *ſole* qualification of a ruler, that in the *election* decreed by *Moſes*, Deut. 1. 13. it is only required that the Rulers be men *known* (for their juſt deportment and viſible godlineſs) *wiſe* and underſtanding.

XVI. In the *founding* a Government, the Legiſlatours muſt be accurate *and diſtinct*: it being

no where more verified then here, that *a ſmall errour in the beginning doth aggrandize in the end.*

XVII. Since the *good of the people* is the *end of Government*, and *regulates* as well as *gives a due valne* unto the *meanes* ordained thereunto: it is neceſſary to be known who the PEOPLE are.

XVIII. To be a part of the *people* it is not *neceſſary* that one *actually* have *land* in ſuch or ſuch a Countrey: as is clear from the examples of *Rome, Athens, Sparta.*

XIX. To become a part of the *people* it is not *ſufficient* that one do live in this or that Countrey, and either *farm*, or actually *poſſeſſe* lands therein:

The *Helots* were not the *people* of *Lacedemon*, though they were the *Boores* and peſantry thereof, renting the whole Countrey, and infinitely more in number then the *Lacedemonians*; the *Proſelytes for inhabitation* amongſt the *Jewes* were not a part of the *people*, nor the *Gibeonites*, though they were conſidered in the *Jewiſh Polity*. And in *Sparta* if any *Citizen* did not ſubmit to the *fundamental* diſcipline of the Countrey, through *diſſoluteneſſe* or *tenderneſſe*, though he did not forfeit his *Lot*, or *Land*, yet did he ceaſe to be a part of the *people*. So *Xenoph. de repub. Lacedam.* τοῖς μὲν γὰρ τὰ νόμιμα ἐκτελοῦσιν ὁμοίως ἅπασι τὴν πόλιν οἰκείαν ἐποίησε, κὴ οὐδὲν ὑπελογίσατο ἔτε σωμάτων ἔτε χρημάτων ἀσθένειαν· εἰ δέ τις ἀποδειλιάσειε τὰ νόμιμα διαπονεῖσθαι, τοῦτον ἐκεῖ ἀπ' ἀρχῆς μήτε νομίζεσθαι ἔτι τῶν ὁμοίων εἶναι. *They who obſerve the rigor of the Spartan laws though they be inſufficient in ſtrength of Body, or Riches, yet are they citizens, and equally ſhare in the publique liberties: but if any through effeminacy or other motives declines their way of education, he is not reputed any longer as a part of the people*, notwithſtanding his means, or abilities of body.

XX. They onely are the *people* who upon the *erection* of a Government, have impowred the *Legiſlatours* to act, being *avowedly* ready to ſtand by and uphold them in their actings.

XXI. To be in the *pay* of a *State* doth not render an Army *mercenaries* or *deprive* them of their ſhare in being the *people*. It did not ſo in *Rome* nor *Sparta*.

XXII. In the enquiry after the *people* of *England*, I think it moſt *rational* to make that *diviſion* amongſt us, which God by his providence, and ſignal *diſtinguiſhing mercies* hath ordered: and that, *whom God hath ſeparated*, man be *cautious* how he joyn them.

XXIII. The *laſt diviſion* which God *prouidentially* hath made in this *Nation*, is that of ſuch as adhered to or abetted S. *George Booth* and *his confederates*, and ſuch as *actively owned* the *Parliament* at that *day of trial.*

XXIV. *Neuters* in the conſtitution of a Government are not conſidered as the *people*, or *any part* of them; ſince they *confer no power* on the *Magiſtrate*, (being meerly *paſſive*) but *ſubmit to what another ſhall give* him: and conſequently neither do the *Magiſtrates* receive, nor the *people* give any other power over *Neuters*, then what ariſeth from the apprehenſions of their proper *ſecurity.*

XXV. Whether we reflect upon *addreſſes* previouſly delivered to the *Parliament*, or *ſubſequent actings*, I believe the Army *and their adherents* (without any deep ſcrutiny into what hath been *confeſſed*) are ſatisfied, that by the *laſt diviſion* which God hath made, *the Presbyterians are excluded.*

XXVI. In the *laſt diviſion* which God hath made, the *Sectaries are all included*, both by *previous addreſſes* and *ſubſequent ſervices.*

XXVII. Whom *God* hath *joined*, let man be tender how he *ſeparate.*

XXVIII. The *baſis* upon which the aforeſaid *people* can erect any *laſting* Government, muſt be

ſuch

ſuch a *Toleration* as each may be *ſecured of* the *continuance thereof* without moleſtation from, yea under the protection of the *Magiſtrate.*

XXIX. The *Toleration of others* who are not the *people*, is to be *regulated* by their *compoſſibility* and conſiſtency with ſuch a *Toleration*, and Government erected thereupon.

XXX. No *religion* doth enterfere with ſuch a *Toleration.*

XXXI. There is no *religion* which can lead a man to renounce the performances of *ſuch actions*, as render him capable of *civil* or *political Society.*

Luke 19. 17. Matth. 25. 21.

XXXII. If the *weakeſt* amongſt the *Sectaries* be ſo *giſted* as that he may receive from *God* that Elogy; *Well, thou good Servant: becauſe thou haſt been faithful in a very little have thou authority over ten cities:* If God will ſay thus to *them*, why ſhould *man* ſay otherwiſe? ſince that *little* in which they have been undeniably *faithful*, is that whereby the *State* hath been & muſt be *preſerved*, and is ſufficient to diſcharge *ſatisfactorily* what an *equal Toleration* will make them *capable* of.

Silence is not to be taken for conſent, where a party is under force.

XXXIII. Where *one part* of a Nation doth *withhold* the *reſt* from ſuch a Government as they *would* otherwiſe *erect*, or *continue*; and doth ſet apart *Legiſlatours* upon their *own account*, without the *concurrence of the other* either tacite or open: there after the *actual eſtabliſhment* of ſuch a Government *uniuerſally*, the *after-act* and *reception* of the *other* party, *kept under force*, is not a *collation of power* to the *Magiſtrate:* or if it [be; upon ſuch a *change* of circumſtances as may render them *free*, their *former acts* are *revocable* according to the *common uſage of the world* juſtified by eminent *Lawyers:*

XXXIV.

XXXIV From whence it is clear, that there is no *ſecurity* in any *ratifications* that can *be drawn* from ſuch as we are (by ſome) perſwaded to *force* into an *equal Commonwealth* with us; but if they get once a *power* they will as little want the *deſire*, as *plauſible pretences* for *annulling* all preceding *actions*.

I ſay *force them*, becauſe I think a *prejudiced* people, *paſſionate* and *ignorant* naturally, will ſo long ſtick at the election, without *force*, as to *ruine* us all.

XXXV. To *ſtep forthwith* into an *Equal Commonwealth* (ſuppoſing that it could be *regularly* done) conſidering our *preſent diviſions* and jealouſies, is a *deſire* not unlike to the *ſuperſtitious obſervation* of the *Arabians*, where ſeveral words come together having over them the point *Vaſhlu*: viz. *they are to be pronounced with one breath, and that muſt be done, although a man ſtifle himſelf about it.*

XXXVI. It is not only *unlawful* in *our Commonwealth* that is to be erected, but *unneceſſary* in any *Republique* that *all* therein (excluding *ſojourners*) be equally regarded in *priviledges*.

This appears from the conſtitutions of *Iſrael*, *Rome* and *Venice*: not to mention what I have already ſaid concerning *Iſrael*, I ſhall here exhibit a brief deſcription of that Commonwealth and the other of *Rome* as to this *inequal conſtitution* of theirs out of *Selden de jur. natur. Hebr.* Having diſcourſed concerning *proſelytes* and their admiſſion into the *participation* of the *name* of *Jews* and *Commonwealth* of *Iſrael*, he ſhews that they were never ſo franchiſed as not to retain a character of their having been *aliens*, an *Hebrew of Hebrews* being diſtinctly recorded from an *Hebrew proſelyte*, who yet were called *Jews*, *Joſeph. orig.* l. 13. c. 17. and as to *real immunities*, he doth thus ſummarily expreſs their condition. "Let us "ſuppoſe *aliens* not deſcended from *Roman* families initiated in the 'Roman religion, to be *cuſtomarily* called *Romans*, and yet to be ex-'cluded *all honours and dignities within the city of Rome or its precincts:* 'and that ſeveral other things are denied them upon the account of 'their being *ſtrangers* by *deſcent*; yet that they participare in *many* 'things. This would be the expreſs condition of the *Jewiſh proſelytes*, 'that embraced totally that religion. Thoſe aforeſaid would re-'ceive a *denomination* from *Rome*, into which (as if it were a new 'native country) they ſhould have *adopted* themſelves, for as much

Li 2. c. 4. p. 164.

Philip. 3. 5.

as

'as by a ſolemn initiation they ſhould become *Romans*, and enjoy 'ſundry *priviledges* God wards, and amongſt men, and live in the '*Roman* territory under new Laws. Yet for ſo much as ſome 'things (according to our Suppoſal) ſhould be denied them upon 'the account of their being *aliens*, it would neceſſarily follow 'that they lye under a perpetual diſtinction of being *ſtrangers*. So 'as, though they ſhould be never reputed of otherwiſe then as '*Romans*, yet ſhould they fall under the exception of being *Stranger-*'*Romans*; ſuch as were not *plenarily citizens*, but *in part* onely. In 'ſo much as theſe *proſelytes*, retaining this character of their being '*aliens*, ſhould much reſemble the *Cumani*, *Acerrani*, and *Atellani*. 'people that were upon this account made *Citizens* of *Rome*, * 'that they ſhould alwaies continue their reiglement or Common-'wealths *in ſeveral* from the people of *Rome*, and ſerve in the *Roman* '*Legions*, but beare no *Office* or *dignity*; or the *Municipes* * who were '*honorarily* entitled to the *City*, but without power of *Suffrage*, or 'being *Magiſtrates*. So that if we follow *Ariſtotle*, who doth Sup-'poſe a *Citizen* to be no way better defined then by *a capacity of* '*being preferred to judicatures and Magiſtracy*, A *proſelyte of juſtice* 'however he might vary his appellation, and be ſtiled a *Jew*, yet 'was not he ſimply to be reputed a *Jewiſh citizen*, but alwaies a '*ſtranger* who had gained ſeveral rights and *immunities* amongſt 'the *free-born citizens*. The *poſterity* of ſuch *proſelytes* were in the 'ſame condition with their *anceſtours*, nor did they ever reap greater '*immunities* then their *parents*. The like practice hereunto is found 'in *Spain* eſtabliſhed by Law, where ſuch *Mahometans*, and *Jews* as are converted to *Chriſtianity*, they retain for ever a memorial of 'their having been *aliens*, and upon that account are excluded, both 'the one and the other, *from places of honour and civil employments* 'almoſt all upon that very account. As *Ludovicus a Peguera*, *Joan-*'*nes Eſcober*, and other *Spaniſh* Lawyers largely inform us.

* Feſtus in *Municeps*.

* Agell. noct. Attic. lib. 16. c. 13.

Οὐδενὶ τῶν ἄλλων ὁρίζεται μᾶλλον ἢ τῷ μετέχειν κρίσεως καὶ ἀρχῆς Polit. 3. c. 1. & 3.

And thus much out of Mr. *Selden* concerning the *inequality* of the Commonwealths of *Rome* and *Iſrael*; yet does not all the Hiſtory of the *Jewes* acquaint us with any detriment (or leaſt *inſurrection*) that befell them from ſuch a conſtitution, in which they thought there was ſo much of *juſtice* as did not retrench upon the precept, *Num.* 15. 15. *One ordinance ſhall be both for you of the congregation and the ſtranger that ſojourneth with you. As ye are, ſo ſhall the ſtranger be before the Lord.* Nor repugne to that *prohibition* which they had received *not to vex or oppreſſe a ſtranger*, *Levit.* 19. 33. yea *Philo*, though their priviledges were no other then *Selden* relates, boaſteth of the favourableneſſe of the *Jewiſh Legiſlatour*, who had given *Proſelytes* equal priviledges with the natives, and placed them in *equal eſteem*.

By ſtranger is meant ſuch a Proſelyte as I ſpeak of.

Ἰσοτίμιαν. *lib. de Monarch & de legat. ad Cajum.*

In *Venice* there are three ſorts or ranks of *Citizens*, the Commonalty, the *Cittadini*, and the Patricians: who yet are not to be reputed

pated *Citizens* according to the definition of *Aristotle*, for the *two former* are excluded from *publick Magistracy*. So in *Rome* some were *Citizens* of *greater priviledges* then other: Citizens of the best quality, or *cives optimo jure*, Citizens of an indifferent quality, *cives mediocri jure*, and Citizens of the worst quality, *Cives deterrimo jure*, such were the people called *Cerites*, who were declared *Citizens* without any power of suffrage. One of the *Cittadini* may be *Chancellour* of *Venice*; they may be sent as *Residents* to any *King*, and other places of profit (as *Secretaries of State*) are allowed them. As for the *common Artisans* and *Tradesmen* they enjoy nothing of priviledge, nor no interest in preferments, or government, only some immunities as to customes and taxes, wherein they pay but half so much as others, and pettit *colledge-offices*. And this account is given of *Venice* by *Bodin* in his Method of History, c. 6. and the Commentatour upon *Gianotti*, p. 324 &c.

This distinction of the *Roman citizens* doth not respect the *richest*, but such as were *incorporated*, they were *priviledged without detriment to the publique*, in a different way. As for the native Citizens of *Rome*, he that will may learn the great *inequality* they lay under in their *Comitia Centuriata* & *Tributa* out of Sir *Robert Filmyes* discourses upon *Aristotles* politicks: but I doe not remember that I have read how from such *inequality* either the people became *mutinous* or the republick, *damnified*, much lesse overthrown.

XXXVII. Experience tells us that a Commonwealth thus *unequal* may stand under *good Orders*, and flourish: and where any of *this nature* (and such ever were the *best* and most *flourishing*) have been *overthrown*, it was not thorough any *intrinsecal defect* in such a constitution, but thorough a defect *originally* or *afterwards contracted* in the *regulation* or *management* of orders necessary to their preservation.

XXXVIII. *Good orders* do not *secure* a Commonwealth wherein the *major* or *more active* part is not *spirited* for such a form.

XXXIX. Where men are never so *well disposed* and *spirited* for a Government, it is by a *due constitution of orders* that they must hope to subsist.

XL. By orders is not meant a *bare vote*, or *proper design*, but a *actual modelling* of the people into a *determinate* posture under *law* & *Officers* suitable to the continuance of them herein.

XLI. It is not the erecting of a Commonwealth by *force*, which ſubjects it to *deſtruction*, but the not making it *Natural* afterwards.

XLII. *Nature* is nothing elſe but a *determination of adjoyning cauſes* where a thing acts thus, or thus.

For a *ſtone* to move *downward*, it is *natural*: becauſe God hath ſo determined the *univerſe*, as to impreſſe a *gravitation* into it. If the *circumſtances* were altered, it would be as *natural* for a *ſtone* to mount *upward*.

LXIII. To make a Government *natural* the circumſtances of affaires muſt be ſo diſpoſed of that they may *neceſſitate* to ſuch a poſture.

XLIV. A *violent neceſſitation* is not *durable*.

There is a *neceſſitation* to be laid upon men which is *durable*, and not *violent*.

The difference betwixt *Moral* and *Natural* cauſes is in the *Manner* of *operation*, not in the *uncertainty* of producing the *effect*; but men uſually miſtake herein, and ſuppoſe the *fallibleneſſe* to be in the *cauſe*, which indeed is in *themſelves*, who from *different circumſtances* look for *reſembling events*. He muſt not deny this, whoſoever in humane actions demands, *why*? or debateth how this or that *is to be done*?

XLV. He that would make a *durable Commonwealth* upon the means aforeſaid, muſt conſider what is the *Baſis* whereon its erection depends and what are the *means* naturally conducing to its eſtabliſhment.

XLVI. In every Government where the *determinate form* is agreed upon, it is *fundamental* that the *means* conducing to it's eſtabliſhment be upheld.

The *means* conducing to the obtaining an *end* may be two waies conſidered: either *in themſelves*, or as to be *practicated* in this or that place. Though ſome things may not be *fundamental* to a government *abſolutely* conſidered, yet they may be, as it is *not otherwiſe poſſible to be erected* in a nation: and ſo the *acceſſional care of them* becomes a *fundamental* to the *Legiſlatours*; ſince without the conſideration of *ſuch circumſtances*, they who are not likely to want *oppoſition*, will want *defence*. And ſo I conceive a *Toleration* to be *fundamental* to a Commonwealth in *England*; for upon leſſe ſecurity then

that

that it ſhall be *irrepealable*, and *meanes* uſed to continue itſo, how can it bee expected that the *Sectaries* (as they are called) ſhould venture their *lives* and *fortunes* chearfully in the behalf of them, who onely ſeek for a preſent ſubſiſtence by their help, and may afterwards reduce them to a worſe condition then ever a *Court of politicians* will put them under.

XLVII. *Lycurgus* his law was *fundamental* to *Sparta*; and ſo was *Moſes* his law to *Iſrael*; though it were not *fundamental* in the latter that they ſhould be executed by a *Senate*: for they might chooſe a *ſingle perſon* to that, *Deut.*17.14.

From whence it is clear that the diſtinction of things into *fundamental*, and not *fundamental* in a *republick* is not abſurd, though it be not imaginable how an *abſolute power* can be bound *extrinſecally*: ſince *intrinſecally* and by *natural neceſſity* an *abſolute power* may be *bound*; as it was ordered by *Moſes* and *Lycurgus*. If they who deſire any thing ſhould be *fundamental*, do not purpoſe the eſtabliſhment of *means* ſuitable thereunto, it is *indiſcretion* in them: but if they doe, it is an *impertinency* to demand, *how this or that ſhall be unalterable?* when the *means* are exhibited whereby to keep it from being *altered*.

Whileſt I was reflecting upon the conſtitutions of Aragon, *and weighing the different circumſtances wherein they at firſt were to what ours are, I thought the following propoſals might advantage ſomething to a ſecure eſtabliſhment amongſt us.*

I. Let all thoſe who have adhered to the *Army* and *Parliament* in the time of the laſt *conſpiracy* by an *active compliance* be regiſtred as the *Liberators of their countrey*, every one of them: and let care be taken by *countrey regiſters*, and *court of Honour*, for the perpetuating of their *memory* in *Families*, and their *deſcendants* after them. Let them be as the *prime-gentlemen*, and at preſent only capable of places of *power* and *truſt*; and hereafter if they or their poſterity ſhall be found of equal abilities with others, let them claim the preheminence before others.

II. Let them be *all* put into a *Military poſture* under faithful Commanders, and accuſtomed to one another and ſo correſpond in a more firm

amity: which will be effected by *frequent muſters* to the ſame benefit to the Commonwealth, that the publick *Feaſts* in *Switherland* produce, or the old *Andria* and *Phiditia* in *Crete* and *Sparta*.

III. Let none elſe be permitted the uſe of *Arms*, unleſſe publick exigency require it; then they may be imployed as the *Jewes* did their *proſelytes*, and the *Spartans* their *Helots*.

IV. In caſe any *Gentlemen* ſhall give by a ſucceſſion of ſervices and deports anſwerable, teſtimonies of his good affection and fidelity ſo as to be truſted, let him be admitted to the priviledge of a *Liberatour of his Countrey*, yet retaining a diſtinguiſhing character of his being onely *impriviledged*. So in *Aragon* there were *Ricos hombres de natura*, and *Ricos hombres de meſnada*: beſides the examples of *Venice* whereof I have already ſpoke.

V. As for the *inferiour ſort* (of whoſe coming in there is as little doubt, as danger) let them be priviledged after ſome time: but admitted to *Muſters* before.

VI. Let the Armies of *Ireland* and *Scotland* be included in the number of the *Liberatours of the Commonwealth of England*, and regiſtred accordingly: every man being to take care for his being regiſtred, if he intend that himſelf or family ſhall reap any benefit hereafter. The like cuſtom is obſerved in *Venice* amongſt the *Cittadini*.

VII. Let all this body of the *Militia of England* including the *Armies* of *Ireland* & *Scotland* chooſe a proportioned number of deputies at their ſeveral muſters, who may out of their number by the *Ballot* elect ſome perſons [it may be *nine* or *thirteen*] who ſhall make up the *Select Senate* or *Conſervatours*

ſervators of the liberties of England.

VIII. Let this *Senate* be *for life*; ſo as that once in two years there be the like procedure as for the election of the *Senate*, to elect a determinate number of men to be *inquiſitors into the deportment of the Senate*, with power to examine briefly and plainly their behaviour, and by Ballot to ſentence by fine or depoſition, any or all of them: and to iſſue out ſummons for a new election.

IX. Let the *Senate*, and the *Inquiſitors* be *inviolably* ſo to be elected as that they bear ſome proportion with the *Chambres impartes* in *France*; as thoſe *Courts* are made up out of *Proteſtants* and *Papiſts* entermixed, ſo let the *Senate* and *Inquiſitors* be made up of the *ſeveral parties* in the Nation ligued in the eſtabliſhment of a Commonwealth, viz. *Independents*, *Anabaptiſts*, *Fifth-Monarchy-men*, and *Quakers*.

X. Let *Papiſts*, *Prelatical*. and *Presbyterial* perſons be for ever excluded the *Senate:* Deut. 23.

XI. The Select Senate is not to intermeddle ordinarily either in the Executive or Legiſlative power of the nation by their own *proper* authority.

XII. The end of their appointment is to ſecure the *fundamental conſtitutions* unto the *Liberatours of the Commonwealth:* that ſo they being ſecured, the other part of the Nation may enjoy that *freedom* which otherwiſe could not be permitted them with *ſafety.*

XIII. The Security which the *people* (for ſo I ſhall for brevity ſake call the *Liberatours*) can have as to their *fundamentals*, doth lie in the management of the *Militia*, *Univerſities* and *Miniſtry*: therefore the inſpection and care of all thoſe (accord-

(according to fitting wayes) must be vested entirely in them; and the *Inquisitors* are to research into their faithful deportment herein:

XIV. Let all their processes run in the name of the *Commonwealth of England*, and be signed only by the *Conservators of the Liberties of England.*

XV: Let the *forces* now in being continue *for ever*; those in *Ireland* and *Scotland* for the security of those *Provinces*: (and let me be recorded as a *fool* and *Ideot* to all posterity, if that the *incorporation of those countries* prove not *destructive* to the *English Liberties*, and particularly *Scotland*, which if ever it *unite* in our *Parlaments*, farewel *peace* and *liberty of conscience.*) The Army in *England* must be kept up as *Guards* to the *Parlament*, *Council of State*, and *Select Senate*, but to be under the *latter*, and whom the *Commander in chief* is to recognize.

XVI. This care being taken for securing *fundamental liberties*, let the *Parlament* be chosen by the *whole Nation*, and not the *people* onely, upon *due qualifications*, and a regulated way of *Elections.*

XVII. Let each County choose a *triple number* to what shall serve in the *House*; and let *them* by an *after-election* agree upon their *Members.*

XVIII: Though the *President* of the *Select Senate* be to be *elective* and vary every *two months*: yet at the *Session* of the *Parlament*, however it happen, let them agree upon a particular *President*, who shall be *Speaker* of the House *pro tempore*, and who *jointly with them* shall examine all *elections*, and tender a *recognition* of the *fundamentals* to each member.

XIX. All the *Select Senate* must have the priviledge of sitting as members in *Parlament.*

XX.

XX. Let the making of *laws* not retrenching upon the *fundamentals* nor power of the *Senate* about the *Militia*, *Miniſtry*, *or Univerſities*, be in the power of the *Parlament*; as alſo *war*, *peace*, matter of *trading*, *taxes*, *cuſtoms*, enquiry into the *receits* and *diſburſments* of *monies*, as alſo the diſpoſal of *places of profit*, &c: *Juſtices of peace*, but not *Sheriffs*; let them be nominated by the *ſelect Senate*.

Let the *Parlament* be called ordinarily once in *two years*, and to endure Three months after the firſt opening of the *Seſſion* by the *Speaker*; and to be ſummon'd upon any *extraordinary* emergency, by the *Council of State*.

Let the *Parlament* chooſe out of their number a *Council of State* to manage affairs in the *intervals* of *Parlament*, and to be accountable to them.

Let Three of the *Select Senate* be at the *Council of State* conſtantly, with a liberty of *debate*, but not *ſuffrage*; and let them be as *inferiours* to the members of the Council, whileſt they are in the *Council*, and at other times, ſaving when they act in their own *Court* as *Conſervators of the Liberties of England*.

I ſhall not particularize any thing further, by reaſon of the ſmall inſight I have in our *national conſtitution*; I ſhall not touch upon the regulation of the *Law*, *Miniſtry*, *Elections and qualifications of Parlament men*, or the like: whereof none can *judge*, but they who are thoroughly acquainted with *circumſtances* whereto I could never attain. If I favour the *perpetuation of the Army*, it is becauſe I think it neceſſary that there be an alteration of *quarters* in the forces of *Scotland* and *Ireland*, which if they be relieved by *freſh Forces* out

of

of *England*, the Governours there will be able to faſten the leſſe intereſt in the *Soldateſque*, and the people leſs imbue them in principles of *diſaffection*. Beſides, I am of the mind that *all Government is by an Army*; and that the Signiory of *Venice* is no leſſe a *military Government* then the Empire of *Turkey*. The difference (as to the execution of lawes) lying in this; in *Turkey* lawes are enforced by a *ſtanding Army*, and in *Venice* the Army is not in *pay*, but he who ſhall refuſe to ſubmit to the lawes will ſoon diſcover this truth, that the *foundation of all juriſdiction is an Army*. I have already ſhewed the ſmall aſſurance that a *Parlamentary vote* gives, or a *ſelect Senate* not backed with an Army, in the *good diſcipline* whereof the *Conſervatours of the liberties of England* will be ſo much concerned as to look thereto, for otherwiſe their condition will be *unſafe*. When *Tiberius Gracchus* endeavoured to eſtabliſh the *Licinian* law, the *nobility* ſlew him, though a *Tribune* of the people, and dearly loved of them; at whoſe death they who ſhould have defended him, were ſo aſtoniſhed, as they moved not to revenge it. In like manner was *Cajus Gracchus* ſlain, and his death not reſented: ſo little truſt is there to be put in an eſtabliſht *Senate* which may be thus overthrown when the people (as not in a conſtant *Military* poſture) are their ſecurity. But it is obvious to any one, whoſe will be the *Army*, if the *preſent forces* be disbanded: I am ſure they who are concerned in a *Toleration* will not be able to bear up. Yea, any *popular tumult* in that *unruly City* of *London* may deſtroy them irrevocably. Thus a ſtanding Army is at preſent neceſſary, and will hereafter be *prudential* by reaſon of the City of *London*, which without ſuch a counterpoiſe is able to give lawes to the Nation, and make the authoritity of the Nation *precarious*. As to what inconveniences may ariſe from the *ſtanding Army*, the *provinces* being their enemies, & they being ſubjected to the *Senate*, who are likewiſe to have a care of the *Countrey Militia*, I think there needs no further corrective.

The *Juſtitia* of *Aragon* loſt his authority when the ſtanding Army of the *Ricos hombres* was put down; though his power were rather *greatned* in *legal* conceſſions.

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of *England*, the Governours there will be able to fasten the lesse interest in the *Soldatesque*, and the people less imbue them in principles of *disaffection*. Besides, I am of the mind that *all Government is by an Army*; and that the Signiory of *Venice* is no lesse a *military Government* then the Empire of *Turkey*. The difference (as to the execution of lawes) lying in this; in *Turkey* lawes are enforced by a *standing Army*, and in *Venice* the Army is not in *pay*, but he who shall refuse to submit to the lawes will soon discover this truth, that the *foundation of all jurisdiction is an Army*. I have already shewed the small assurance that a *Parlamentary vote* gives, or a *select Senate* not backed with an Army, in the *good discipline* whereof the *Conservatours of the liberties of England* will be so much concerned as to look thereto, for otherwise their condition will be *unsafe*. When *Tiberius Gracchus* endeavoured to establish the *Licinian* law, the *nobility* slew him, though a *Tribune* of the people, and dearly loved of them; at whose death they who should have defended him, were so astonished, as they moved not to revenge it. In like manner was *Cajus Gracchus* slain, and his death not resented: so little trust is there to be put in an establisht *Senate* which may be thus overthrown when the people (as not in a constant *Military* posture) are their security. But it is obvious to any one, whose will be the *Army*, if the *present forces* be disbanded: I am sure they who are concerned in a *Toleration* will not be able to bear up. Yea, any *popular tumult* in that *unruly City* of *London* may destroy them irrevocably. Thus a standing Army is at present necessary, and will hereafter be *prudential* by reason of the City of *London*, which without such a counterpoise is able to give lawes to the Nation, and make the authoritity of the Nation *precarious*. As to what inconveniences may arise from the *standing Army*, the *provinces* being their enemies, & they being subjected to the *Senate*, who are likewise to have a care of the *Countrey Militia*, I think there needs no further corrective.

The *Justitia* of *Aragon* lost his authority when the standing Army of the *Moorhomb* was put down; though his *power* were rather *greatened* in *legal condition*.

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I ſhould end my diſcourſe here, but that ſome *reflections* upon the whole precedent diſcourſe do now come into my mind, without an haſtie ſolution of which difficulties I think *uncivil* to break of. I confeſſe to any *Objector*, that all our debate concerning the *Ephori* of *Sparta*, the *Roman Tribunes*, the *Select Council* appointed *Lewis* of *France*, or *K John* of *England*, as far as they *purely* are alledged, for proofe of a *Power* to be conſtituted for the preſervation of *Fundamental Liberties* againſt a *popular Aſſembly*, ſo far they are *impertinent* unto our affaires, who *doubt* not but there may be a way to reſtrain the exorbitancy of *Kings*, though not of *Parliaments*. How this *later* may be done is our Inquiry now, and a *Preſident* for that is demanded, as wel as contrivance by *model*. I ſay hereupon that the *Juſtitia* of *Aragon* was a *Check* to the *Parliamentary Aſſembly* of that Kingdome: For he might not onely ſuppreſſe any *Party* as the *Ricos Hombres*, or *Cavalleros*, or *Cities*, upon any emergency by the *priviledge of Union*; but alſo fruſtrate all the Decrees of the *Cort general*, if they did not proceed according to *his Fueros*. I have given you an inſtance hereof in my relation of the *Juſtitia's* actings under *Jacobus* 1. nor do I doubt but if his *ayde* had been implored by the Commonalty, he might have advanced the *Standard* of the *Union*, and by the People themſelves have proſecuted even the *Cort general*, if they infringed his *Juſtitiate*. So that it is clear that *though there be no ballance for the people themſelves, if they fixe upon the overthrow of fundamentals, yet there may be a counter-poyſe for the repreſentatives of the people*. This truth will much more appear from the *Conſtitution* of Rome, in which I find the People ballanced by the *Order* of their *Claſſes* and *Centuries* in their great Aſſembly, or *Comitia centuriata*. The whole People were divided into *ſix Claſſes*, and each *Claſſis* into *Centuries* of a *very unequal proportion*. *The Patricians, Senators, Noblemen, Knights*, and *Gentlemen* of *Rome*, made up the *firſt Claſſis*, and *Ninety eight Centuries*. All the *pooreſt ſort of People* made up but *one Claſſis and Century*, whereas upon a due proportion of number, they ſhould have made up a *thouſand Centuries*. Here you have a ballance

lance for the *People* by the *Original deſign* of the Common-wealth: For if 98. Centuries of the *Gentry*, and firſt *Claſſis*, or 97. agreed, (things carried not by *Poll*, but number of *Centuries* concurring) then were not the other *Centuries* called to ſuffrage, being a *Political* Minority. So that it is poſſible you ſee by an *Original contrivance* to limit the *Legiſlating People* themſelves. But to give you a *further* and very *material* inſtance for a *ſelect Senate*, I aver that the *Senate* of *Rome* was in its *Conſtitution* until *Cæſar's* time, ſuch a *coordinate Senate* as many now cry up. That the *Executive* power was in them is not doubted: That they were concluded by the *Laws* enacted by the *People*, is unqueſtionable. They had moreover a dormant Power to ſecure the *Fundamental Lawes and Frame of the Common-wealth*, even againſt the *Repreſentatives of the People*, viz. *the Tribunes*, or even the People themſelves: And *of ſuch emergencies* they themſelves were *Judges*. This appears by the power they had to create a *Dictator* Paramount to all *patrician* or *popular Magiſtrates*, who might *arbitrarily* diſpoſe of the *Life* and *Fortunes* of any *Roman* Citizen, or *parties*. Secondly they had upon caſes of inteſtine dangers from the *Tribunes* or *populace*: A Power to make that extream and ultimate Vote, of *Viderint Conſules nequid Reſp. detrimenti capiat*. Let the Conſuls take care that the Republick be not prejudiced. And when this Vote was made, the *Conſuls* might fall on any *mutinous* Citizens, and ſlay them without triall: by ſuch a Decree were the *Tribunes* of the *Gracchi* ſlain, and thoſe in the time of *Cæſar* forced to fly *Rome*, as any one may read in *Cæſars Commentaries of the Civil war*, Lib. 1. Thirdly, this *Senate* (which was for life, unleſſe the *Cenſor* outed any for miſdemeanours) had a power to *annul Lawes* made by the *People*, as *Manutius* in his Book *de Senatu*, ſhewes out of *Tully*. So that it is manifeſt, that as all the *good government* of that Republick, and all the *grandeur* was derived from the *Senate*, ſo the aforeſaid *Senate* was a power in ſome caſes *coordinate*, or rather *Supreme* to the *People*. And I will evidence it, that ſuch a power in that *Senate* was not the cauſe of the ſubverſion of that *Common-wealth*, but other *male-conſtitutions*,

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which if they had not been, this *Frame* had not been ruined.

Having mentioned unto you *Fundamental* Conſtitutions of the *Roman Common-wealth:* you may poſſibly demand of me, if they had any ſuch? Sir, you will not be the firſt who make this enquiry, but I aſſure you they had, and that they were not only *unalterable*, but never *altered*. The People in their *Seceſſion* to the *Mons Sacer* did ordain them, and the *Senate* (without ſuch demurs as we are now troubled with) did aſſent to them, and they were called *Leges Sacratæ*, or *Sacred Laws*. All *other Laws* might be *abrogated*, but *not theſe:* the *Executive Magiſtracy* might be *new modelled* and *varied*, but not theſe Laws. Nor do I find that the *having ſuch Fundamentals* was accounted by any *judicious man* heretofore an *imprudent act*; or found in practiſe *detrimentitious* to the *People* or *State*.

Manut de leg. Rom. p. 190.

Manut. de leg. Rom. P. 351.

But further, it is a ridiculous argument, *The People generally aſſembled, can lie under no reſtrictions of their power.* (which is falſe; for their *way of aſſembling* may be ſo contrived, and a party ſo ordered as to be able to check the *more numerous*, if *they* ſhould, who are *morally* inhabilitated to ſuch a deſign, conſpire to ſubvert the *Fundamentals.*) *Therefore the Peoples Repreſentatives can lie under no reſtrictions.* The *People* perſonally aſſembled are an *Army*, and ſo the *Power* as well as Authority viſible: but their *Repreſentatives* are not ſo; and therefore may be checked by the *Senate*, impowered to that end with their *Guards*.

This laſt diſcourſe ſuggeſts unto me another Model, which I ſhall exhibite to you, leaving circumſtances to further contrivance.

Let there be a *Select Senate* for the ſecuring of the *Fundamentals*, with the *ſtanding Army* for their *Guards*, and a power to curb the Truſtees of the whole Nation in Parliament, if they go about to ſubvert the *Fundamentals*. Let them have the *Executive* power, and the *Parliament* in ordinary the *Legiſlative*.

I have not time now to diſcriminate their powers, but if the poſture of the people in a *Militia* be ſetled according to my other model, according to this all parties may receive a fair eſtabliſhment. There may be *Cenſors* con-

contrived, or *Inquiſitors*, to enquire into the deportment of the *Senate*, and ſupply their number. And if it be thought meet to fix an extraordinary character upon any perſon amongſt us; He may be as in the *Roman Senate*, *princeps Senatus*, or *Prince of the Senate*, a Title which hath nothing of power, or of a *ſingle perſon*, but only *Honour*; for the power was in the *Conſuls* and *Senate*, the prince was only reputed the beſt and ableſt man in the republick, and who had ſignaliſed himſelf by his actings formerly, and was *firſt* to give his *ſuffrage*, or deliver his mind by *ſpeech*, if he thought it meet.

I have been the longer herein, not only becauſe I take an infinite pleaſure in entertaining you, but becauſe poſſibly your *negligence* may bereave me of any opportunity of writing to you *more*. It is not now a time to *dally*; hitherto your neighbours were not at *leaſure* to attend your actions, or contrive your *ruin*, now they are not only *vacant* to watch all advantages, but it is become their *intereſt* to effect it. Thus your *Dangers* multiply from abroad, and your *Friends* decreaſe: a league with you is like an *Egyptian* Reed, which is likely either to fail, or wound him that leans thereon: none can build any certainty upon your *promiſes*, yea it is *dubious* whether they may ever come to be *ratified*. How then can your *Envoyes* abroad treat, or how can you expect but that all ſhould deſert you, ſince it will become their *prudence* to do ſo? If you defer your *Settlement* ſome moneths (for I ſhall not ſuſpend my thought till *May*) all your *confederates* muſt fix upon other *deſignes* then you would wiſh. And at home, how do you think they who are called *Sectaries* ſhall ſupport you, upon no other, nor more advantagious terms than of *bleeding* for Inſenſible and diſcurteous *Friends*? I at preſent call you *Friends*, though your deportment ſhews that you are, or would be even their *Maſters*? If *their hands* are weakned, how will others be *enraged* who have not faſtened the like *obligations* upon you, that you have received from them. If they who met you in the Wilderneſs, who refreſhed you in your diſtreſs be thus diſguſted by you, what fears will ſeiſe upon them who might juſtly dread what God awarded to *Amalek*? But to conclude; Be more *ſuſpicious* of your enemies, and leſs jealous of your friends: nothing can ſecure you of the former but an utter *impoſſibility of hurting you*, and of the latter you have the aſſurance not only of their *affection*, but *incapacity of prejudicing* you. Regulate the —— erect —— deſtroy the eſtabliſhed intereſt of —— let them ſhift for their livings, who plot to take away your lives: when ye have done thus let him be a Monarch that will. The *moſt wiſe* cannot *effect* a regality, nor a fool keep it. *You may commit a thouſand errours in the government you eſtabliſh, but the greateſt you can poſſibly fall into is the leaving us in unſettlement.* I beſeech you to excuſe the freedome I make uſe of in this addreſs; *the ſmitings of a friend are faithful*, & if I have let fall any thing that may give you cauſe to entertain other thoughts of me, I ſhall upon any opportunity evince unto you, how I am with the greateſt inclinations poſſible.

Ch. Ch. *Oct.* 13. 1659.

Sir, *Your moſt affectionate-humble Servant*; H. S.

FINIS.